
ENVIRONMENTAL CHALLENGES



THE REPORT OF THE
SASKATCHEWAN ENVIRONMENTAL
ASSESSMENT REVIEW COMMISSION

91-03918/

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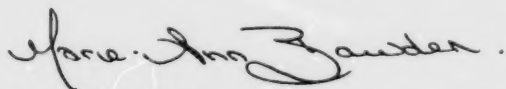
Hon. Grant Hodgins, Minister
Environment and Public Safety
3085 Albert Street
Regina, Saskatchewan
S4S 0B1

Dear Mr. Hodgins:

On behalf of the members of the Saskatchewan Environmental Assessment Review Commission, I have the honour of presenting our report and recommendations regarding the revision of The Environmental Assessment Act and related procedures. The panel believes the text and recommendations embody the spirit of public concerns.

We urge you to carefully consider the recommendations and we hope to see them implemented as soon as possible.

Sincerely,



Marie-Ann Bowden
Chairperson of the Saskatchewan
Environmental Assessment
Review Commission

We, the members of the Saskatchewan Environmental Assessment Review Commission,
unanimously approve the contents of the report as submitted to the Minister of Environment
and Public Safety.

Bert Weichel

Bertram J. Weichel
Commissioner

Donald Somers

Donald G. Somers
Commissioner

Marie-Ann Bowden

Marie-Ann Bowden
Chairperson

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1.0 Preface

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1.1 ACKNOWLEDGEMENTS

As Chairperson of the Commission, I am indebted:

To my fellow Commissioners, Bert Weichel and Don Somers for the enthusiasm and imagination with which they addressed the many issues that were raised before the Commission. Their dedication and willingness to do the best job they could over the very short period of time available to us, their patience with the Chair, and their sense of humour were invaluable.

To the Minister, Hon. Grant Hodgins and the Deputy Minister, Les Cooke for their encouragement and support of the independence of our Commission.

To the many individuals and organizations who responded to our request for input with thoughtful and constructive comment at both the public forum and in private meetings. In particular I would like to thank those invitees to our public meetings who took the time to prepare presentations in order to provide a springboard for discussion on those very worthwhile evenings.

To those various departments and agencies of Government for their candid and comprehensive response to our request for their views on environmental assessment.

And finally, to the three staff members of the Commission. Bernadette Harman, Administrative Assistant, displayed the remarkable ability to juggle three full-time work schedules with the province-wide commitments of the Commission and those anxious to meet with us, while ensuring that no detail was overlooked. Her outstanding work made our tasks both manageable and enjoyable. Leigh Speed, Researcher, gathered background information and analyzed it with vigilance far beyond the call of duty. Her enthusiasm for the subject area and constructive suggestion lent much to the framing and recommendations of the report. Finally, Sandra Savage, Legal Researcher, responded to our rather vague request to analyze environmental assessment law and practice in "other" jurisdictions with a thoroughness that put other efforts, to date, to shame. Moreover, her penchant for asking the hard questions enabled us to define our underlying objectives and propose both workable and philosophically sound recommendations.

We could not have wished for better assistants.

Marie-Ann Bowden
College of Law
February, 1991

1.2 MANDATE

The Saskatchewan Environmental Assessment Review Commission (SEARC) was appointed by Ministerial Order on August 9, 1990 by the Minister of Environment and Public Safety, the Honourable Grant Hodgins.

The mandate of the Commission was to review the current Saskatchewan Environmental Assessment and Review Process and The Environmental Assessment Act. The Minister requested recommendations, for changes to the process and legislation as well as background and rationale for each suggestion, to be submitted as early as possible in the new year. To accomplish this task, environmental and legal practices across Canada were researched. The Commission also held meetings throughout Saskatchewan to hear the concerns of the public before drafting their recommendations to Government.

The Commission's recommendations on The Environmental Assessment Act and its processes are made to the Minister with the understanding that they will be made public when they are submitted.

1.3 PANEL MEMBERS

Marie-Ann Bowden served as chairperson of the Saskatchewan Environmental Assessment Review Commission. She is an expert in environmental law in Saskatchewan, and is an associate professor at the University of Saskatchewan, College of Law. She is a member of the Law Reform Commission of Canada Permanent Advisory Committee on Environmental Law and was the Saskatchewan representative on the Federal Committee for the Review and Reform of the Federal Impact Assessment Process (1987-1988).

Bert Weichel is an environmental consultant and teaches geography at the University of Saskatchewan. He is an active member and past president of the Saskatchewan Environmental Society as well as being a member of the Saskatchewan Round Table on Environment and Economy.

Don Somers was vice-president of SMDC for eight years and is now a principal with the management consulting firm, Peat Marwick Stevenson and Kellogg. He is the founder and chairperson of the Awareness Science and Technology Education Programme (A-Step). He holds a Ph.D. in medical biophysics and is affiliated with the Chemical Institute of Canada, the Canadian Nuclear Society and the Canadian and American Genetic Societies.

1.4 BACKGROUND

Environmental assessment (EA) has been law in Saskatchewan for almost 11 years. When the Act was first proclaimed, law-makers were justifiably proud of this statute which set the standard for EA legislation across the country. But since then, the promise of The Environmental Assessment Act has failed to meet, or keep up with, the environmental expectations of the public.

The reasons for this are many and address the shortcomings of both the procedure and content of the present legislation and practice. Concerns range from assessing policy to stakeholder funding; from scope of the process to confidentiality of information. All are legitimate issues and warrant our specific attention.

These individual issues aside, the real justification for the Commission was simply that it was time to review the EA statute and practice. After 11 years our EA "feet are more than wet." We have seen how the legislation has been applied. Many individuals and organizations throughout the province have been parties to the process in local activities.

After years of experience, people have definite opinions as to the efficacy of the process in securing sound environmental decision-making. We are not alone in undertaking a review; several other jurisdictions within Canada (including Ontario, Manitoba and Alberta) are also in the process of systematically reforming their EA laws and practices after some years of applying existing processes.

The other driving force behind EA reform was the will of the public. The level of concern and commitment to the environment has dramatically increased over the past 11 years. The people of Saskatchewan appreciate their natural environment and have consistently supported initiatives to protect and preserve the province's natural resources. When environmental concerns are overlooked or not given the priority they deserve, the majority now demand to know why. The public has come to expect that their own commitment will be reflected in the executive decision-making of their elected representatives.

As people are becoming more environmentally aware, they are scrutinizing planning processes like environmental assessment more rigorously. The public recognizes that, without such safeguards, their vested interest in a sustainable future may well be jeopardized.

In fact, the present state of our planet gives us few options but to proceed, with all due haste, toward environmental sustainability. As *Our Common Future* (WCED, 1987) correctly stated, we must think globally and act locally to ensure that the needs of this generation are met without prejudicing the needs of future generations.

As part of the plan for local action, the Saskatchewan Environmental Assessment Review Commission was appointed by the Minister of Environment and Public Safety, the Honourable Grant Hodgins in August, 1990.

After hiring appropriate staff, the Commission scheduled a series of twelve public meetings around the province to listen to individuals and organizations concerned about environmental assessment. A background document, entitled *The Future of Environmental Assessment in Saskatchewan*, was prepared by the Department of Environment and Public Safety. Copies were distributed to interested people throughout Saskatchewan before the Commission held their local forums.

The initial mail-out was followed by invitations to some 20 stakeholders in each community, representing different interests (e.g. industry, Native concerns, local government, agriculture, etc). These individuals and organizations were invited to prepare a brief, 10 minute presentation to the Commission at the meeting in their area. We wanted to ensure that all relevant perspectives were represented and heard in each community. We also hoped that such presentations might offer a springboard for discussion and debate among the audience and the Commissioners.

In each community, the Commission also met with individuals and organizations interested in making private submissions. Not surprisingly, these submissions to the Commission were quite consistent with the general views made in public by like-minded people. These consultation options allowed us to hear the full range and depth of input, while ensuring the personal "comfort level" for all participants. (For a list of presenters, see Appendix IV).

The results of this seven week exercise were extremely worthwhile. Although all three Commissioners had some experience with the environmental assessment process, our perspectives on EA were decidedly different. As common themes and concerns emerged, our knowledge and understanding of the area grew and our views on many issues began to solidify. In each community, we were impressed with the depth of commitment to the environmental future of this province, lending moral justifications to our suggestion for fundamental reform.

"Government must not be married to the practices of the past when planning for a cleaner environment in the future."

—Lynda Haverstock
Liberal Leader

We completed the public input component of our task by setting aside three "government days" for the Commission to canvass the opinions of those within government directly affected by the operation of the environmental assessment process. The Commissioners consulted members of the Environmental Assessment Branch, the Technical Review Committee, and 35 senior administrators from 18 departments. Their very different views on the efficiency of the existing process and suggestions for reform offered yet another perspective to the myriad of opinions.

In December and January the Commission met to draft the report of recommendations to the Minister. Our debate was lively, covering as many aspects of EA as the Commission felt competent to address. The suggestions of the Commission reflect a workable and acceptable solution to the existing problems of environmental impact assessment in Saskatchewan while setting a new, exciting and necessary challenge for the future.

Like many others in Saskatchewan, SEARC awaits the government response to our Report.

1.5 STRUCTURE OF THE REPORT

This report is divided into three major areas. First, the theoretical perspective. What are the fundamental concepts of environmental assessment? What is the present state of EA legislation and practice? What are the necessary process design principles which must be included in any EA process?

Secondly, the report offers specific recommendations for policy and site-specific EA processes. The main text of the report includes a detailed discussion of particular issues and a proposal to implement the suggested reforms.

Finally the report also places EA within a broader framework. While EA is an integrated process in itself, it must also be integrated within the overall context of environmental protection. For this reason, reference is made to other initiatives needed to support the EA process.

We conclude with a summary of our recommendations and appropriate appendices.

1.6 EXECUTIVE SUMMARY

The mandate of the Saskatchewan Environmental Assessment Review Commission (SEARC) was to review, and make recommendations for the reform of, The Environmental Assessment Act (1980) and process. Public consultation was considered an intrinsic part of this process and SEARC received input from people representing all sectors of society.

As necessary background to our recommendations, SEARC examined the historical context and current status of environmental assessment (EA), both nationally and within the province. Changes that must be made to EA to respond to new environmental priorities were then considered.

The goal of a sustainable future provides the foundation. The purpose of the EA process is to provide the effective decision-making mechanism to ensure we are moving in that direction.

Certain concepts are fundamental to the objectives of EA. The process must include meaningful public involvement. This necessitates public education, consultation, as well as enshrined rights in the public to ensure that the process is properly followed. EA must engender fairness to both proponents and the public. Those charged with the responsibility for EA must be objective, unbiased and independent of political influence.

Nevertheless, ultimate decision-making must rest with those who are politically accountable. By requiring these individuals to openly articulate their reasons for decisions, the integrity of the process will be protected and public confidence gained.

Any EA process must be comprehensive in scope, flexible and yet be rigorously applied in order to ensure fairness while securing environmental protection.

The reformed process, which SEARC proposes, shall be the responsibility of an independent Environmental Assessment Commission (EAC). The EAC will have both an administrative and/or decision-making role in all major steps of the process, from the conceptual through to the operational stages. These stages encompass policy assessment, site-specific assessment as well as monitoring and decommissioning.

Policy assessment is essential to ensure that the environmental implications of all Government policies are considered prior to their adoption. In this phase of assessment, the EAC acts in a support and watchdog capacity—making sure that policies (as well as proposals, plans and programmes) are adequately examined; that the public has the opportunity for input; and, that constructive recommendations on the environmental soundness of policies are provided to Government.

Provided policy assessment has occurred, site-specific activity proposals consistent with such policies can be assessed. Within the proposed EA process, an "activity" shall mean any industry, activity, undertaking, project, structure, work, exploratory venture, test well or feasibility study, and include modification, extension, abandonment, demolition and/or rehabilitation thereof. The role of the EAC will be to administer a focussed assessment which considers the particular environmental impacts of the activity on the affected environment, from the initial proposal through to decommissioning and abandonment. All activities shall be considered within the process. However, the EAC, through screening and proposal review procedures, will determine those proposals which require a full impact assessment before decisions can be made. Avenues for public input will be provided throughout.

The EAC will be assisted by administrative support and technical expertise in reviewing the environmental impact statement. The decision as to the environmental acceptability of proposals will be made by the EAC, subject to variance by the Minister of Environment and Public Safety. It is fundamental that both the bio-physical and socio-economic

impact of an activity be acceptable in order to justify an approval. Otherwise, the objectives of EA and the goal of a sustainable future will be defeated.

The EA process will not end with an approval decision for a particular activity: monitoring and enforcement will be integral elements. Monitoring will provide necessary feedback to evaluate the effectiveness of the process itself, as well as to provide data needed for future site-specific assessments. Enforcement will ensure the long term credibility of EA while securing adherence to environmental standards and conditions. To secure this end, an Environmental Auditor will be appointed to: oversee monitoring; co-ordinate between Government regulatory agencies and the EAC; and, report relevant findings to the EAC as well as Government, the Legislature and the public.

Certain other concerns raised by the public also warranted specific attention. In particular, individual members of the public must be granted statutory rights relating to standing, private prosecution, stakeholder funding and, where appropriate, appeal. Each of these rights are necessary to secure the fundamental concepts of fairness, openness and accountability.

The new EA process will not be retroactive, but will apply to any expansion, alteration or decommissioning of existing activities. This, coupled with a systematic review and revision of other environmental protection regulations, will offer reasonable equity between existing activities and new initiatives while incrementally improving protection of the environment.

Interjurisdictional disputes in relation to EA abound. It is suggested that attempts must continue in order to achieve a degree of co-operation with the senior level of Government and other provinces.

Environmental assessment must be part of an overall environmental protection strategy. Any reform of the EA process requires supporting initiatives to ensure its success; three are identified by SEARC. First, a much greater effort and comprehensive approach is needed in environmental education, and must include informing all stakeholders of the rights and obligations under the EA process. Secondly, a provincial data base of environmental information must be established with the objective of determining ecological carrying capacities. Finally, regional planning exercises are needed to identify opportunities for, constraints upon, and public sentiment about environmentally sustainable economic activities. The combined effect of these initiatives, together with policy assessment, will be to provide a "window of opportunity" for individual proposals to enter the site-specific EA procedures.

In all, 162 specific recommendations are made in this Report. It must be stressed that the components of this Report cannot be divided—each is integral to the whole and must not be separated. Simply adopting one or two concepts will totally defeat the value of our recommendations.

The reformed process which SEARC proposes reflects the fundamental concepts of EA while providing a workable mechanism for its implementations.

2.0 Introduction to Environmental Assessment

2.1 Historical Context

2.2 Environmental Assessment in the 1990s

2.1 HISTORICAL CONTEXT

Environmental law in Canada, and more particularly, Saskatchewan, has passed through a series of stages (Estrin, 1972) since it emerged as a unique area of the law in the late 1950s. Canadians first recognized the seriousness of problems of environmental degradation in the late '50s and early '60s. Their immediate response to solve such problems as air and water pollution was to stop the offending activity by law, restore the damaged resource and then prevent further degradation by licensing "acceptable levels" of discharge. On an issue by issue, often crisis by crisis basis, society responded to growing environmental problems. Between 1956 and 1970, every province in Canada adopted two or more environmental statutes.

The second stage in Canadian environmental law was to address the increasing body of environmental legislation in a more comprehensive manner. Some provinces simply compiled the statutes which had been passed to date, while others, including Saskatchewan, established a department within Government to protect and promote environmental concerns.

Despite these efforts, environmental law failed to meet the growing challenge of environmental protection. Problems continued to emerge and issues outpaced laws. A new approach to environmental protection was essential: a pro-active rather than reactive approach, to prevent environmental problems, rather than just trying to clean them up.

In seeking a solution, Canada turned to the United States and the National Environmental Policy Act of 1969. This Act introduced environmental assessment to North America. It was not long before Canada tested EA for itself. In 1973 the Federal Government, pursuant to an earlier Cabinet Directive, introduced the Environmental Assessment Review Process (EARP). Saskatchewan kept pace with national activities, and, in 1976, the provincial government introduced its own environmental assessment policy and created the Environmental Assessment Branch.

Environmental assessment was originally intended as a planning tool. It was designed to describe and evaluate all possible environmental impacts of a proposed action before irreversible decisions regarding the future of the proposal were made.

It seemed, if not a panacea, at least a reasonable response to many of the shortcomings in environmental protection to date. With EA, the government could predict, mitigate and prevent environmental degradation—a new approach which could lessen the impact before-the-fact.

Environmental assessment offered many other advantages over the previous approach to environmental protection. Consulting and involving the public was considered

fundamental to its efficiency. The definition of "environment" was expanded to include social and economic considerations. Each proposal would be assessed, and state-of-the-art technology could be demanded to ensure the environment was protected.

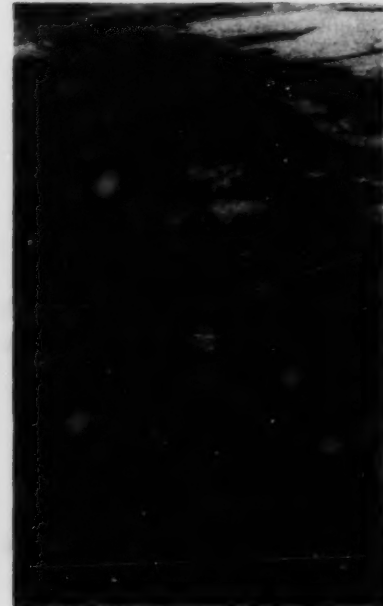
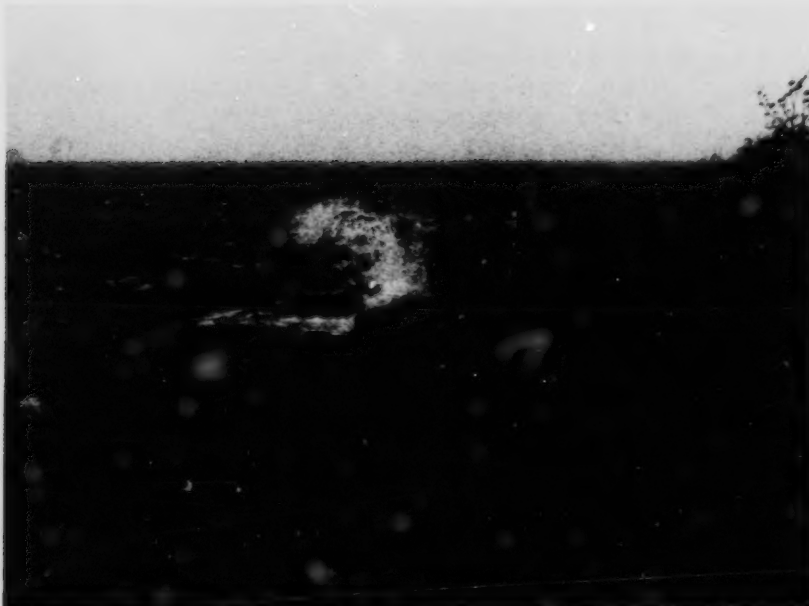
Initial attempts at using the EA process were encouraging. The results seemed to ensure Saskatchewan's future well-being. Some 50 full environmental impact assessments (EIAs) were undertaken between 1976 and 1980, including the Key Lake Mine and the Nipawin Hydro Project assessments. Four were not approved; a number were deferred by the proponent. The success of these assessments prompted The Environmental Assessment Act to be passed in 1980—an Act which remains virtually unchanged today. Environmental Assessment now had the full force of law.

Since the passage of that legislation, approximately 636 projects have been screened through the process and 80 have required full EIAs. (See Appendix II for more information). Of those projects, all but two have been given Ministerial approval to proceed, or to proceed subject to conditions. As well, only on one EIA (Rafferty-Alameda dams project) did the Minister deem it necessary to establish a Board of Inquiry.

2.2 ENVIRONMENTAL ASSESSMENT IN THE 1990s

Over the years the environmental assessment legislation and process has been increasingly criticized. Considering the original intent of environmental assessment and the state of the process now, much of the criticism is justified. To its credit, Saskatchewan Environment and Public Safety (SEPS) is fully aware of the problems and clearly summarized the extent of public concerns in the document, *The Future of Environmental Assessment in Saskatchewan*, which they prepared for this Commission and the public.

But the people of Saskatchewan are demanding a return to the basic principles of environmental assessment which stress an integrated and comprehensive approach to environmental protection and development. It is a view encouraged by the Brundtland Commission in its landmark report, *Our Common Future* (WCED, 1987). Clearly,



environmental assessment is essential if society is to create a sustainable environment to meet our needs and the needs of generations to come.

To do this, the actual mechanics of the EA legislation and policy need to be amended. We nonetheless acknowledge that the basic structure of the EA process, as it relates to site-specific assessment, has merit.

Eleven years ago, site-specific assessment was the logical starting point for EA in Saskatchewan. The tools of EA were designed to address the environmental impacts within set boundaries of a proposed activity. The questions were, "What will be the impacts of this activity on the community and its environment, and are those impacts acceptable?" This proved manageable from a technical perspective. As more EIAs have been done, methodologies to evaluate and predict impacts have also improved.

However, while site-specific EA in Saskatchewan is necessary, it is insufficient for adequate protection of the environment. At this time, site-specific EAs fail to adequately examine the broader environmental consequences, such as the cumulative effects of individual projects. Both the public and scientific communities now recognize that environmental implications of most activities are rarely confined to the specific site.

More importantly, the EA process has yet to fully consider the environmental impact of the underlying policies which generate individual projects. Arguably, environmentally acceptable policies are more likely to generate environmentally acceptable activities.

The public has demanded the big issues (policies) be considered when assessing individual projects, as there has been no alternative forum to do so. This has overloaded the present EA procedure which is not designed to incorporate these concerns into the process. The result of this is that site-specific EA has become increasingly complex, time-consuming and expensive. All stakeholders agree that this is undesirable and that steps must be taken to alleviate the problem.

In order to adequately predict and evaluate impacts, environmental assessment must incorporate these broader issues, as well as place site-specific assessments within a broader context. Environmental Assessment, in order to justify the reform, must become both a planning and management tool and fulfill the potential originally imagined for it.

For these reasons, each of the Commission's recommendations throughout this report were held up to the standard demanded by the public in our forums and then re-examined in terms of the efficiency of the process and the administration.

*"We can't afford to be
anywhere but on top
of the environment
. . . the public is
ready for reform."*

—Hon. Grant Devine
Premier

3.0 Foundations and Fundamental Concepts

- 3.1 Foundations
- 3.2 Public Consultation
- 3.3 Fairness
- 3.4 Accountability
- 3.5 Comprehensiveness
- 3.6 Rigour and Flexibility

3.1 FOUNDATIONS

"We've all heard of the proverbial straw that broke the camel's back. If the camel's back is thought of as a valued ecosystem or as the earth, and the straw as a non-environmentally sound development, then EIA is the mechanism that may stop us from picking up the straw in the first place."

—Al Shpyth
Consultant,
environmentalist

In order to present an improved environmental assessment process, SEARC felt it necessary to indicate the underlying concepts and principles on which it must be based. The intent is to clarify the purpose and characteristics of EA, as well as distinguish between what it is and is not.

First, our common goal must be sustainability. "Progress" must mean moving toward a sustainable future—creating a society that can maintain a functional economy while preserving the ecosystems, with all their ecological diversity, upon which we depend. The environment is both "where we live and what we are," while the economy is both "what we do and how we do it." In this deteriorating world of the late 20th century, it is clear that the future, perhaps for all species, lies in our ability to integrate the environment and economy.

The sustainability goal is already being embraced in Canada. This can be clearly seen in the early responses to the global challenge of *Our Common Future* (WCED, 1987). A National Task Force on Environment and Economy was struck in 1987; Round Tables on Environment and Economy at federal and provincial levels have been established; and Conservation Strategies and Green Plans are being developed.

While it is not possible to fully describe what society will be like in a sustainable future, it will be one where economic activity, technological innovation, and social and cultural growth continue. Yet it shall not undermine the supporting ecosystem. This goal cannot be achieved instantly, nor can it be achieved at all unless we examine all endeavours to ensure they are consistent with our long-term goals.

And that is exactly the purpose of an environmental assessment process; it is the decision-making tool which can be used to identify the options, evaluate the implications and make the best environmental choices. The assessment process must, therefore, make it possible to choose "the most appropriate and positive means of responding to a recognized problem or opportunity. They should be, of all the practical options, the ones most in accord with the principles of sustainability" (Gibson, 1990).

An effective EA process is not a method to make an activity palatable after final decisions have already been made. The best that can be accomplished when EA is used as an after-the-fact extra, is to reduce the negative impacts by forcing the proponent to mitigate. However, neither is EA a technique for stopping all development. Rather than

creating roadblocks to progress, EA is like a system of maps, signposts and checkpoints to ensure decisions move society in the direction of sustainability.

Environmental assessment is not, simply, a means to assess an activity at the pre-implementation stage. Nor is it the definitive solution to environmental problems. Rather, EA is one aspect of a comprehensive environmental protection plan. This means EA cannot end when each development decision is reached. The process must include follow-up monitoring and evaluation, otherwise no one can build upon the successes, learn from the failures, or even be confident it is working.

In order to reflect this foundation, SEARC has determined that certain design principles are necessary. These include the concepts of public consultation, fairness, accountability, comprehensiveness, rigour and flexibility.

3.2 PUBLIC CONSULTATION

In order for any environmental assessment process to be successful, it must allow the public to be actively involved. The public must be brought into the process as early as possible, and be able to access the environmental assessment process throughout. The public must be informed about proposals and the process, as well as have the right of access to information. While proponents may have legitimate reasons for withholding information from the public, all information should be made available unless it fits within the very narrow parameters of confidentiality. (See Section 7.3).

The Government has recently promised access to information legislation and we applaud this initiative. However, we propose that the right to information should be incorporated into amended EA legislation as well.

Beyond access to information, the public must have an opportunity to make their views known through a variety of mechanisms, including written comment and direct participation in public forums. Opportunities for involving the public must be clearly defined in the legislation. As well, the process must balance reasonable time-frames for public consultation with the genuine concern of the proponent to move through the process efficiently.

The importance of public input cannot be overestimated. Using only technical information to assess the impacts on the environment is not enough: public values and preferences must be considered. The EA process must provide a credible framework for gathering this information, and openness is essential for it to be credible.

"At present, public involvement starts when the EIS is made available to the public. We believe that it could start much earlier. It could certainly start at the stage of a project proposal. Our contact with communities which potentially are affected by our projects indicate that the communities really wish to be involved as early as, I would say, a conceptual project is being contemplated."

— Bernard Michel
President, Cameco



Special consideration must be given to ensure that the Northern communities are fully consulted when activities are proposed which will affect their regions. SEARC heard numerous complaints from Northerners of public meetings being held in Saskatoon and Regina, when the issue pertained to activities taking place in the far North. To ensure Aboriginal peoples and other Northerners can take part fully in the EA process, public hearings should take place in the communities which will be most affected by the proposed activity. As well, translators and translations of public hearings and understandable, comprehensive summaries of environmental impact statements should be available for directly affected people who speak in the first languages.

RECOMMENDATIONS

- 3.1 The public must be brought into the environmental assessment process as early as possible and be part of the EA process throughout its duration.
- 3.2 The public must be empowered with a right of access to information.
- 3.3 The right of access to information shall be incorporated into EA legislation.
- 3.4 The public must have mechanisms, defined by law, to voice their opinions, and reasonable time-frames to do so.
- 3.5 Public hearings shall take place in the communities which will be most affected by the proposed activity.
- 3.6 Translators and translations of public hearings shall be available for those people who speak the first languages. Comprehensive summaries of the EIS shall be available to those directly affected individuals who speak in the first languages.

3.3 FAIRNESS

Fairness applies both to the proponent and the public. Environmental assessment must be an objective process—both independent and impartial.

In terms of the proponent, it is necessary that all proponents "play by the same rules." The EA process must be predictable, so that the proponent knows what the process will require ahead of time. However, it must also be flexible and able to respond to the specific needs of the individual proponent.

It is necessary to focus the environmental impact assessment (EIA) studies, so that study scope is defined and criteria for decision-making are clear and publicly available.

These criteria should be incorporated into EA legislation. All participants in the process demand consistency in the application of decision-making criteria and in the ultimate decisions. In order to ensure fairness, Government and Crown Corporations must also be bound by this legislation.

Repeatedly, all stakeholders that SEARC consulted expressed some concern regarding a perceived bias by decision-makers and those within the administrative structure. Fundamental to ensuring both openness and fairness is the necessity for an independent agency responsible for the EA process.

"By its actions, the government of Saskatchewan has shown that it respects neither the letter nor the spirit of environmental assessment legislation. How can industry, municipal governments and the public be expected to follow sound environmental practices if the government fails to do so itself?"

—Ed Tchorzewski
NDP Environment
Critic

RECOMMENDATIONS

- 3.7 Environmental Assessment must be an objective process—independent and impartial.
- 3.8 The rules of EA must be consistently applied.
- 3.9 The scope of an environmental impact assessment (EIA) shall be defined and criteria for decision-making shall be clear, publicly available, and incorporated into legislation.
- 3.10 Government and Crown Corporations must be bound by EA legislation.

3.4 ACCOUNTABILITY

The EA process must be legislated and regulations put in place as quickly as possible. The failure over the last 11 years to enact regulations pursuant to the existing Act is totally unacceptable. Without regulations the process has lost its credibility and is ineffective. This cannot be repeated.

Obligations, for all participants, must be obligatory within the legislation. Ultimate decision-making shall remain with elected officials. However, ministerial discretion shall be minimized. To do this, reasons for all decisions and recommendations shall be given in writing and made available to the public at the time they are made. We believe the openness of the process and of the decision-making itself will ensure maximum public accountability of politicians.

RECOMMENDATIONS

- 3.11 The EA process must be legislated and regulations must be enacted pursuant to the Act as quickly as possible.
- 3.12 Obligations within the legislation must be mandatory.
- 3.13 Ultimate decision-making shall remain with elected officials.
- 3.14 All recommendations and decisions shall be in writing and made public at the time the recommendation and/or decision is made.

3.5 COMPREHENSIVENESS

We have already alluded to comprehensiveness in applying consistent and fair criteria to all activities. But comprehensiveness is also temporal. Activities should be assessed from cradle to grave—from the idea through construction, operation, monitoring, decommissioning. Temporal comprehensiveness also includes assessing short-term, cumulative and long-term impacts.

In addition, comprehensiveness deals with the scope of the assessment itself: bio-physical, social, cultural (archaeological), economic and aesthetic impacts must be considered. Finally, comprehensiveness must be viewed from a spatial context—immediate, local, regional and global impacts must be assessed.

RECOMMENDATIONS

- 3.15 Activities shall be assessed from cradle to grave and beyond.
- 3.16 Short-term, cumulative and long-term impacts shall be assessed, as well as bio-physical, social, cultural (archaeological), economic and aesthetic impacts.
- 3.17 Immediate, local, regional and global impacts must be assessed.

3.6 RIGOUR AND FLEXIBILITY

The process must be rigorously applied and enforced, and ensure that adequate information is available for informed decision-making. To ensure the process is efficient, information and methodologies must be consistent; however, a degree of flexibility is necessary.

Environmental impact assessments must take into account the relative size and impacts of the activity, and adjust the studies accordingly. If the other process design principles, most particularly fairness, are considered, this should not be a problem.

RECOMMENDATIONS

- 3.18 The process must be rigorously applied and enforced.
- 3.19 Information and methodologies must be consistent but flexible, and scaled appropriately to the nature of the proposal.

4.0 The New Environmental Assessment Process

- 4.1 Introduction
- 4.2 Establishment of an Environmental Assessment Commission
- 4.3 The Stages of Environmental Assessment
 - 4.3.1 Conceptual Stage—Policy Assessment
 - 4.3.2 The Screening Stage—Site-specific Assessment
 - 4.3.3 The Assessment Stage
 - 4.3.4 The Review Stage
 - 4.3.5 The Decision Stage
 - 4.3.6 The Operational Stage—Monitoring and Decommissioning

4.1 INTRODUCTION

This section presents an overview of the structure and operation of the revised environmental assessment (EA) process. Included is a generalized diagram which highlights the major aspects of the proposed EA process. (See Figure 1, page 18). Further sections describe how the process will work, specifically, and a more detailed flow-chart (Figure 2, inside back cover) sets out each stage. The sections describing the proposed EA process also contain some references to Section 7 of this Report, in which certain issues are discussed in greater depth.

As a fundamental starting point, it is the recommendation of SEARC that all activities and policies should be assessed under mandatory EA legislation. The reasons for this fundamental change to EA in Saskatchewan are easily explained.

Assessing development is the norm throughout Canada. However, each province has a different definition as to what constitutes a site-specific activity of sufficient environmental impact to warrant review. Yet all agree that once a threshold of environmental impact is crossed, the activity must be evaluated.

If impacts are evaluated before irreversible decisions are made (i.e. at the planning stages), environmental degradation can be avoided or, at a minimum, most effectively mitigated.

However, the problem remains: when is the policy behind the site-specific activity evaluated? It is unjust to force proponents to assess issues beyond their individual proposals. But the present system is the only opportunity the public has to air such issues. This problem has manifested itself in the continuous debate of policy issues during site-specific assessments. The outcome is both unsatisfactory and inadequate.

SEARC examined two alternatives to this problem. One alternative is to include policy assessment within the existing (site-specific) process. However, this is undesirable for two reasons.

First, assessing policy in the site-specific stages occurs too late; much of the planning and development has already been completed, and to reject the underlying policy at this stage is untimely. To expect proponents to repeatedly address broader policy issues beyond their control and expertise is also unfair.



Secondly, even with amendment, the existing EA process is an inappropriate tool for policy assessment. To examine policy within site-specific assessments would pervert and unduly complicate the procedure. Ideally, policy should be addressed separately with an appropriately designed mechanism.

While policy assessment and site-specific assessment have the same objective, their

inherent differences require that separate assessment procedures be used. For this reason, SEARC designed two procedures which are meant to work in tandem.

It is important to note that links exist between the two procedures to minimize duplication. We expect policy assessment and site-specific assessment will run on parallel but complementary paths for the first few years. Ultimately, policy assessments should occur before site-specific proposals are examined. The result will be a comprehensive assessment process.

For this design to work, SEARC recommends that an independent agency be responsible for both policy and site-specific assessments. By dovetailing these responsibilities in one agency, duplication, conflict and possible competition between two administrative bodies will be avoided. Also, when the two EA procedures work in sequence, it is logical for one agency to evaluate the process from policy concept to specific activity proposal through to activity abandonment. Once this framework is in place, any proposed activity which is not consistent with a previously assessed policy will be rejected at the first stage of a site-specific assessment.

4.2 ESTABLISHMENT OF AN ENVIRONMENTAL ASSESSMENT COMMISSION

As discussed in the preceding paragraphs, the EA process shall be administered by an independent Environmental Assessment Commission (EAC). It shall be established and mandated under a new Environmental Assessment Act and Regulations. The EAC will carry out the assessment process (see Sections 5 and 6 of this Report), and replace the present Environmental Assessment Branch of Saskatchewan Environment and Public Safety (SEPS). Although it will retain many of that Branch's general functions, there will be significant alterations.

The EAC will be administered by a full-time chairperson and four additional full-time Commissioners, appointed by the Lieutenant Governor in Council, and funded by an annual expropriation from general provincial revenues. Required personnel will consist of a director, a team of five to seven project officers, and appropriate administrative, secretarial and professional support. The Commissioners shall be appointed for a rotating, once-renewable term of not less than three or more than five years. The Commissioners shall be appointed from outside of Government and represent a variety of stakeholders to ensure they collectively provide a diverse experience and range of technical expertise, including ecology, environmental law, resource economics and sociology. As well, they

"The 'environmental review body' . . . must be and seem to be independent from influence from any vested interest group."

—Neil Ketilson
Sask. Wheat Pool

must have a demonstrable understanding of integrated planning and the goal of sustainability.

The mandate of the EAC shall be to administer an EA process which ensures environmentally sound integrated decision-making. An annual report of the activities and progress of the EAC shall be submitted to the Legislature.

RECOMMENDATIONS

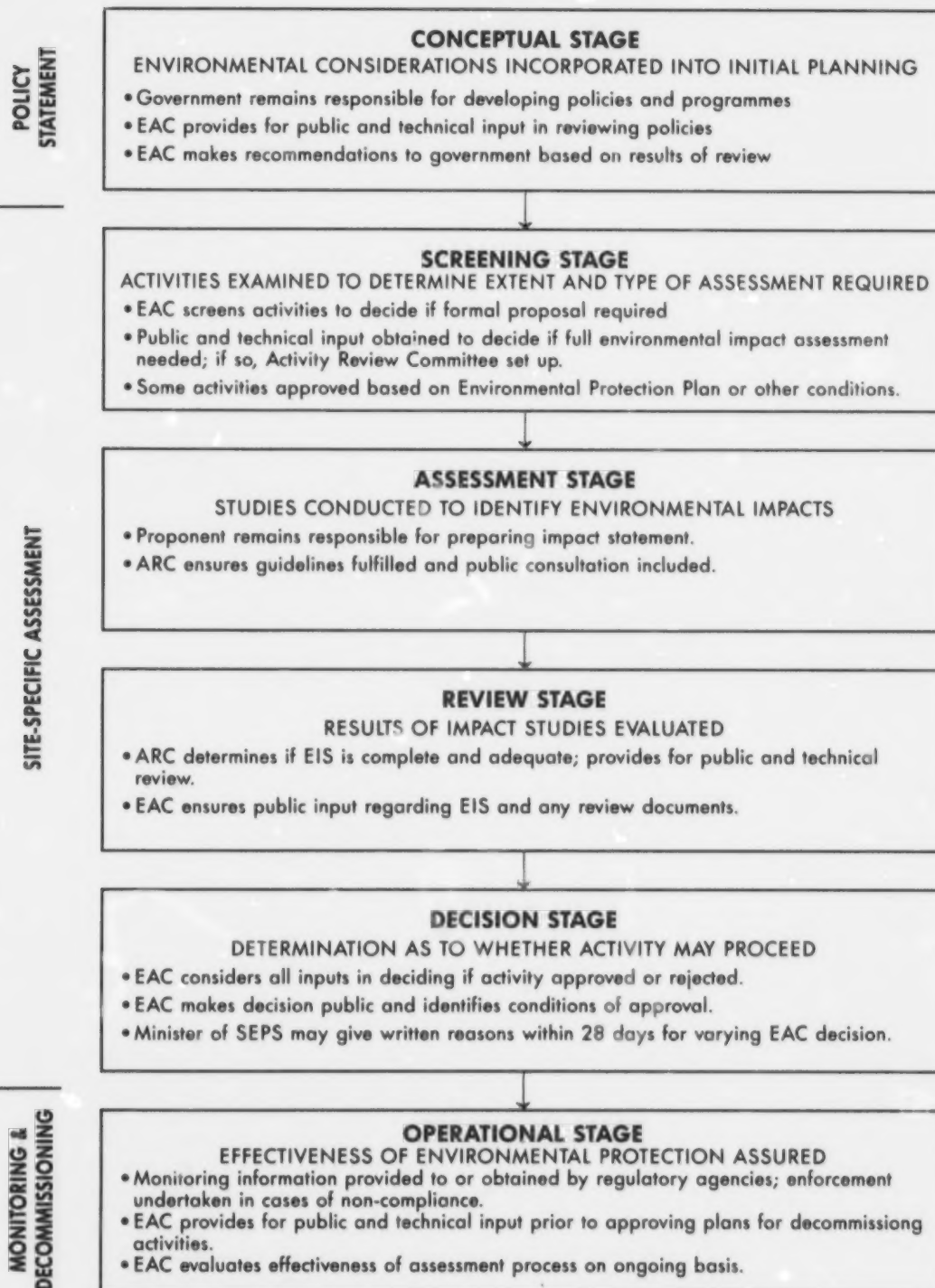
- 4.1 The EA process shall be administered by an independent Environmental Assessment Commission (EAC), established and mandated under a new *Environmental Assessment Act* and Regulations.
- 4.2 The new Environmental Assessment Commission (EAC) shall replace the present Environmental Assessment Branch of SEPS.
- 4.3 The EAC shall consist of a full-time chairperson and four full-time Commissioners who will be appointed by the Lieutenant Governor in Council. They shall be appointed for a rotating, once renewable three-to-five year term.
- 4.4 The new EAC shall be funded by annual expropriation from general government revenues.
- 4.5 The mandate of the EAC shall be to administer an EA process which ensures environmentally-sound integrated decision-making. An annual report shall be submitted to the Legislature.

4.3 THE STAGES OF ENVIRONMENTAL ASSESSMENT

A complete and effective environmental assessment process must begin at the time when ideas for activities are first created, and extend beyond the time when approvals are given and those activities begin. At its simplest, the process should consist of six distinct stages, as illustrated in Figure 1.

The first is the conceptual stage. It is crucial, at this point, to examine whether the integration of bio-physical and socio-economic considerations has produced general policies that are in keeping with the goal of developing a sustainable future. At the screening stage, site-specific proposals are examined to determine their complexity and the extent of further investigation required before a decision can be made as to whether and, if so, how activities should proceed. The third is the assessment stage, wherein proponents carry out the necessary studies for those proposals which warrant full impact assessments. At the review stage, the results of impact studies are thoroughly evaluated and the views of informed stakeholders are considered. Decisions are then made on whether and, if so, under what conditions, proposed activities should be allowed to proceed. Finally, at the sixth or operational stage, activities are monitored to ensure that environmental protection is, in fact, being accomplished.

Figure 1
OVERVIEW OF PROPOSED ENVIRONMENTAL ASSESSMENT PROCESS



4.3.1 CONCEPTUAL STAGE—POLICY ASSESSMENT

Policy development shall continue to be the responsibility of government in order to retain political accountability. However, all policies shall be clearly articulated, indicating how environmental considerations are to be incorporated. The EAC must provide an appropriate avenue for public input during an open review and assessment of policies. Following the review, the Environmental Assessment Commission shall make recommendations to Cabinet, on the environmental soundness of the policy, which will be made public at that time. Although the EAC's recommendations are not binding, Cabinet will be aware of how the EAC and the public view the policies in question. This will serve as an important consideration in choosing to revise or simply abandon policies which are not environmentally sound.

RECOMMENDATIONS

- 4.6 Policy development shall remain the responsibility of government. However, policies shall be clearly articulated, indicating how environmental considerations have been incorporated.
- 4.7 The EAC must ensure that an open review of policies takes place and involves public input through the appropriate forums.
- 4.8 The EAC shall make recommendations to Cabinet after reviewing the environmental soundness of policies. The EAC shall make these recommendations public at this time.

4.3.2 THE SCREENING STAGE—SITE-SPECIFIC ASSESSMENT

This represents the beginning of the Environmental Assessment Commission's role in examining specific proposals. All activities shall be included in the environmental assessment process at this stage. The EAC determines if proposed activities are consistent with environmentally assessed policies. Those which are not will proceed no further in the site-specific assessment procedure. Those which are consistent with policy and do not have significant environmental impacts will have completed the environmental assessment process.

However, if further investigation is required, the EAC will ask the proponent to submit a mandatory formal proposal document. After allowing for public and technical input on the proposal, the EAC will then determine if a full environmental impact assessment (EIA) must be conducted. If not, the EAC may permit the proponent to proceed with the activity on the basis of a proponent's environmental protection plan (EPP) or other possible conditions.

When a full EIA is necessary, the EAC will establish an Activity Review Committee (ARC) to finalize EIA guidelines and supervise the proposal's progress through the next three stages of the EA process.

RECOMMENDATIONS

- 4.9 All proposed activities shall be affected by the EA process at this stage, unless exempted after being initially screened.
- 4.10 The EAC shall determine if proposed activities are consistent with environmentally-assessed policies and identify activities requiring a mandatory formal proposal to be submitted.

-
- 4.11 The EAC shall provide for public and technical input to determine whether a proposed activity requires a full environmental impact assessment (EIA).
 - 4.12 When a full EIA is necessary, the EAC shall establish an Activity Review Committee (ARC) to guide the proposal through the assessment.
 - 4.13 The EAC may reject or approve proposed activities on the basis of either initial screening or formal proposal review, but the latter approvals will be conditional on the adequacy of a proponent's environmental protection plan (EPP).

4.3.3 THE ASSESSMENT STAGE

During the assessment stage, proponents shall be responsible for preparing the environmental impact statement (EIS). The EIS guidelines prepared by the Activity Review Committee shall specify the scope and method of research, as well as identify the relevant bio-physical and socio-economic issues to be addressed by the proponent. The ARC shall ensure the EIS is completed in a reasonable amount of time, allowing for public and technical input.

RECOMMENDATIONS

- 4.14 Proponents shall bear the cost of, and provide the expertise in completing an environmental impact study document which meets the specific guidelines prepared by the ARC.
- 4.15 An ARC, established by the EAC, shall ensure the EIS is completed.

4.3.4 THE REVIEW STAGE

The completed EIS document should be the basis for analyzing and evaluating the proposed activity. The ARC shall co-ordinate an objective examination of the document by appropriate members of the inter-departmental Technical Review Committee (TRC). The ARC must also have the option of obtaining advice or critiques by independent experts. In addition, the ARC will ensure that the public has been provided with the final EIS and commentary. Where required, stakeholder funding must be made available to enable the public to make submissions or presentations at public meetings, hearings, or other forums.

RECOMMENDATIONS

- 4.16 The completed EIS document shall be the basis to analyze and evaluate the proposed activity. The ARC shall co-ordinate input from the Technical Review Committee.
- 4.17 The ARC may obtain advice or critiques of the completed EIS document by independent experts.
- 4.18 The EAC may make stakeholder funding available to allow public input through submissions or presentations.

4.3.5 THE DECISION STAGE

At this stage, the EAC decides if the proposed activity shall be granted an EA licence, by the Minister, to proceed. Those commissioners sitting on the ARC for that particular proposal will consider all inputs before publicly reporting their written decision to the Minister of Saskatchewan Environment and Public Safety (SEPS). A go-ahead decision will include all applicable conditions and licence requirements that must be met. The Minister may, within 28 days, overturn a decision of the EAC, either to approve or reject an activity. However, the Minister must give written reasons for overturning the decision; in this way ensuring political accountability.

RECOMMENDATIONS

- 4.19 The commissioners who have been on the ARC shall report, in public and in writing to the Minister of Environment and Public Safety, whether the proposed activity should be rejected or approved.
- 4.20 In forwarding a decision to approve, the EAC shall identify all applicable licensing conditions.
- 4.21 The Minister of SEPS may, within 28 days, give written reasons for overturning an approval or rejection decision of the EAC.

4.3.6 THE OPERATIONAL STAGE—MONITORING AND DECOMMISSIONING

Proponents will enter this stage by meeting all pre-operational conditions and obtaining any other approvals required by regulatory agencies. These requirements will have already been identified when the proposal was approved—at the screening stage or following a full EIA.

The principal roles of the EAC, at this stage, are to ensure monitoring and decommissioning are adequately carried out, and to evaluate the overall effectiveness of the EA process. Monitoring information, whether from the proponent or obtained through inspection, shall be regularly submitted to regulatory agencies. As well, proponents shall make understandable summaries of monitoring results of the activity periodically available to the public. Proponents seeking to terminate an activity will be required to submit decommissioning plans to the EAC. Approval of these plans will occur only after technical review and public input has been obtained.

RECOMMENDATIONS

- 4.22 Monitoring information, whether from the proponent or obtained through inspection, shall be regularly submitted to regulatory agencies. Proponents shall also make understandable and comprehensive monitoring summaries available to the public.
- 4.23 The EAC shall be responsible for ensuring the adequacy of monitoring and decommissioning, and to evaluate the overall effectiveness of the EA process.
- 4.24 The EAC shall review any decommissioning plans, and shall only approve decommissioning go-ahead after technical review and public input has been obtained.

5.0 Policy Assessment

- 5.1 Introduction
- 5.2 Policy Assessment Process
 - 5.2.1 Government
 - 5.2.2 Crown Corporations
 - 5.2.3 Private Industry
- 5.3 Interim Measures
- 5.4 The Mechanics of Policy Assessment
 - 5.4.1 Procedures
 - 5.4.2 EAC Role at this Stage
 - 5.4.3 The Policy Review Committee
 - 5.4.4 Political Decision-Making and Accountability

5.1 INTRODUCTION

While the term "policy" is used exclusively in our Report, "policy" shall be defined within the new EA Act and include policies, proposals, plans and programmes.

The environment has to be a priority rather than an after-thought, and Government must re-orient its thinking accordingly. Weighing environmental implications must, therefore, become an intrinsic part of formulating policy, and Ministers and Cabinet must expand their decision-making responsibilities to include these considerations.

Just as many issues (economic, political, social, etc.) are weighed when developing policy, environmental implications must also be addressed as early as possible. If we recognize the inextricable relationship between economy and environment, then evaluating each separately creates a false dichotomy. Inevitably, this will result in a continuing conflict between these domains rather than forging a co-operative model for developing sustainability.

Through the course of our public hearings, SEARC was bombarded with the demand for open and public assessment of policy. Public input must be an intrinsic part of the policy review process. The public is anxious to ensure that policy makers are aware of the environmental implications of their decisions as well as public sentiments regarding those decisions. They wanted to ensure that any process which SEARC designed was transparent, that the assessment of the environmental acceptability of policy would be conducted by an independent body, and that the politicians who make the ultimate decision would be accountable for their decisions. Policy assessment will achieve all of these ends.

The following policy assessment process has been designed to enable elected decision-makers to assess the environmental implications of their policies and, if necessary, to revise them in order to reflect sound environmental principles.

In order to do this, the EAC shall systematically review all integrated policy statements, of Government, to ensure environmental implications have been considered. After evaluating the impact of any policy, the EAC shall be responsible for making public its recommendations about the environmental soundness of the policy. Because policy-making is primarily a political exercise, the ultimate decision regarding a proposed policy shall rest with the Minister of the initiating department and Cabinet.

The environmental implications of many policies are presently under consideration. We cite the efforts of the Round Table in establishing a conservation strategy as one example of such far-sighted initiatives. The same can be said of many departments, particularly those which are most closely tied to the bio-physical environment.

RECOMMENDATIONS

- 5.1 The term "policy" shall be defined within the new EA Act and include policies, proposals, plans and/or programmes.
- 5.2 The EAC shall systematically review policy statements to ensure that all environmental consequences have been recognized.
- 5.3 The EAC shall make public its recommendations regarding the environmental soundness of all policies.
- 5.4 Policy decisions shall continue to be political decisions; therefore, ultimate decision-making power shall be left with politicians.
- 5.5 Public input must be an intrinsic part of the policy review process.



5.2 POLICY ASSESSMENT PROCESS

If policy assessment is to succeed, the process must be workable, efficient, open and accountable. It is also necessary to recognize the realities of the government process and the constraints upon resources. Rather than "re-inventing the wheel," many existing strategies and organizational structures can be incorporated into the proposed process to aid in the review and ensure that it works efficiently.



Policy originates from a variety of sources, including government departments, public interest and lobby groups, industry and Crown Corporations. However, most policy initiatives are channelled through individual departments to the Minister responsible and, ultimately, to Cabinet. Environmental assessment must "tap in" to this process as early in the policy development stage as possible.



5.2.1 GOVERNMENT

Cabinet has recently initiated programmes stressing environmentally sound actions; for instance, establishing the Round Table on Environment and Economy. To sufficiently serve the ultimate goal of environmental sustainability, each department of government shall be required to prepare a statement of the environmental implications of all policies, programmes, plans and initiatives currently within their mandate. This integrated policy statement will

"The government should first commit itself to reviewing its own policies, programmes, plans, projects and operational procedures for their environmental impact, and to not proceed with the same without first conducting such an assessment."

—Al Shpyth
Consultant,
environmentalist

educate the department to possible environmental consequences and re-orient their actions to reflect environmentally sound principles. The Cabinet will continue to act as a catalyst to ensure environmentally sound policy making becomes a priority. Bearing in mind this Cabinet commitment, current activities which are environmentally unsound would be re-examined.

SEARC considered the option of having an independent agency carry out the actual environmental assessment of all existing Government policies. However, it was felt that Government was more capable of assessing its own policies and programmes using the staff and expertise already available to them. As well, weaving the goal of a sustainable future through all policies is best done by those who make the policies. Government has promoted environmental sustainability, and SEARC believes the Government is ready to reflect that in their commitment and practice. The Government's environmental consciousness can only be raised if it is responsible for ensuring its policies are environmentally sound.

In order to achieve this, we propose that a specific individual within each department be responsible for ensuring that this integrated policy statement is completed within 12 months (one year) of proclamation. The Technical Review Committee (TRC) member in the department shall be given primary responsibility for this task, as part of his/her duties.

Initially all existing policies will be assessed, with periodic reviews as required. All Government departments will be expected to complete this task within the specified time-frame. When each department has completed its in-house evaluation, it will submit its integrated policy statement to the EAC.

Once this is completed, only newly proposed policies will be assessed before they are accepted as department policy. Thereafter, each department will be required to prepare a written integrated policy statement for new policy initiatives. This policy statement will feed into the policy assessment process described in Section 5.4.

RECOMMENDATIONS

- 5.6 Each Government department shall be required to prepare an integrated policy statement of the impacts of all policies, programmes, plans and initiatives currently in place within their department.
- 5.7 The Technical Review Committee (TRC) member in each department shall be responsible for ensuring that the department's integrated policy statement is completed within one year after proclamation of a new EA Act.
- 5.8 After the in-house evaluation has been completed, each department will submit the integrated policy statement detailing its policies to the EAC.

5.2.2 CROWN CORPORATIONS

We propose that Crown Corporations be phased into the policy assessment process. Certainly, it is in their best interests to initiate environmental assessment of policy as quickly as possible, especially considering their long-range planning strategies. Because of the expected initial volume of policy assessments, we recommend a two-year lead time after proclamation before integrated policy statements are required.

Incorporating environmental concerns into Crown Corporation decision-making will not be burdensome on either the Corporations or the existing government infrastructure. Crown Corporations are currently required to undergo annual reviews before

the Crown Corporations Committee. Asking Crowns to consider the environmental implications of their policies is simply another kind of review, and will ensure that a more complete picture is available for public scrutiny.

RECOMMENDATIONS

- 5.9 Crown Corporations shall be phased into the policy assessment process, with a two-year lead time after proclamation before written integrated policy statements are required by the EAC.

5.2.3 PRIVATE INDUSTRY

With regard to private industry, different considerations emerge. Historically, the policies of industry have been private and have not been subject to public scrutiny. It is not the role of Government to directly determine the environmental acceptability of private corporate policy. However, industry must recognize that when such policies manifest themselves in environmentally unacceptable activities, they will be scrutinized through the site-specific environmental assessment. Environmental assessments may also be necessary when Government makes a significant contribution to private industry, be it a commitment of finances or provincial resources.

In some cases, assessing policies of private industry will be accomplished indirectly, since Government policies may respond to private industry initiatives. These policies will be subject to formal policy assessment.

Industry must, therefore, encourage Government to consider the environmental implications of any policy which may affect them. They may even take it upon themselves to lobby for those policies which are environmentally sustainable. SEARC recommends that industry should initiate assessment of their own policies. The long-term benefits will be that site-specific proposals of industry, resulting from such policies, should be more environmentally acceptable and should move through the EA process more readily.

RECOMMENDATIONS

- 5.10 Industry should encourage Government to consider the environmental implications of any policy which might affect them.
- 5.11 Industry should initiate assessment of their own policies for environmental soundness.

5.3 INTERIM MEASURES

Until all policies have been reviewed, we are faced with the dilemma of those activities which are presently being assessed, and new proposals which will come forward in the interim. The choices ranged from placing a moratorium on approvals of any proposal where the underlying policy has not been reviewed, to a "business as usual" approach. Both extremes were unacceptable to SEARC.

Instead SEARC proposes a middle-ground. Those newly proposed activities which are not based on an environmentally assessed policy, but are nonetheless environmentally sound, may proceed with an approved environmental protection plan (See Section 6.3).

Proposals presently in the existing system have already been found to have possible significant impacts. These activities, along with new proposals which may have

"While reducing environmental impact in a particular area, the cost of development, in very tangible terms, was reduced by about 30 per cent. So it is, in fact, often in the proponent's interest to pay attention to the environmental details because they actually have an economic value."

—Jay Lyons
Project manager
Lone Pine Resources
Calgary

significant impacts will have two options. Proponents may delay their proposal until an environmentally assessed policy is in place. The other alternative would be for the EAC to conduct a policy assessment while the proponent does a site-specific assessment at the same time. However, the proponent must then be aware that this will be a more lengthy process. If the policy is ultimately considered to be environmentally unsound, the proposed activity will be rejected. An additional alternative exists for proponents who have already commenced their EIS: they may choose to continue in the existing system.

The Environmental Assessment Branch might encourage appropriate departments to begin assessing policies that directly affect site-specific proposals immediately in the system.

RECOMMENDATIONS

- 5.12 Newly proposed activities which are not based on an environmentally assessed policy, but are environmentally sound, may proceed with an approved environmental protection plan.
- 5.13 Proposals presently in the EA process, and new proposals which may have significant impacts, may delay their proposal until an environmentally assessed policy is in place, or allow the EAC to conduct a policy assessment while the proponent does a site-specific assessment at the same time. Proponents who have already commenced their EIS may choose a third alternative: to continue in the old system.

5.4 THE MECHANICS OF POLICY ASSESSMENT

(See Figure 2, inside back cover)

5.4.1 PROCEDURES

As each department reviews the environmental implications of its policies, it will document these as an integrated policy statement. This process will be co-ordinated by the Technical Review Committee (TRC) member in their department.

The TRC representative will communicate with other relevant departments, most notably, the Strategic Planning Branch existing within Saskatchewan Environment and Public Safety (SEPS).

The Strategic Planning Branch will gather and provide background information to enable all departments to work from common criteria in developing their integrated policy statements. This in-house screening is of great value in the long term. If such review becomes a matter of course, environmental concerns will be internalized by those who are initiating policy, and the environment will be given the attention it deserves.

When a department has completed its integrated policy statement, it shall be forwarded to the Environmental Assessment Commission (EAC) for review. All integrated policy statements, regardless of the nature or magnitude of environmental impacts, will be forwarded to the EAC.

No policy may by-pass the system entirely. At some point, the EAC will become involved, if only to screen and, in essence, approve the policy.

If the integrated policy statement is deemed to be incomplete, the EAC shall require the department in question to complete and, if necessary, modify the submission to respond to its legitimate concerns. It may then be re-submitted to the EAC.

The EAC will conduct a review of the integrated policy statement in order to determine its adequacy in addressing environmental concerns. As part of this evaluation, they may consult with in-house resources, the TRC, and/or outside experts. SEARC believes that public input may be sought.

RECOMMENDATIONS

- 5.14 The Strategic Planning Branch in SEPS will gather and provide background information to enable all departments to work from a common base in preparing their integrated policy statements.
- 5.15 Once an integrated policy statement (IPS) has been screened for environmental consequences within the department, the IPS shall be forwarded to the EAC for review.
- 5.16 The EAC will conduct a review of all policies in order to determine their adequacy in addressing environmental concerns.
- 5.17 No policy may by-pass the system entirely. All policies must be submitted to the EAC before being approved.
- 5.18 The EAC shall have the power to require a department to complete and modify its submission if the EAC believes it is incomplete.

5.4.2 EAC ROLE AT THIS STAGE

On the basis of this evaluation, the EAC may pursue two courses. If the policy is without environmental implications (e.g. Changes to the Adoption Policy), or is environmentally sound or may enhance the environment (e.g. a waste reduction programme), then the EAC may recommend the policy to Cabinet. The EAC will ensure that the policy, along with its commentary, is made public at this time.

As a second alternative, when it is clear that broad environmental consequences may result, the EAC shall open the review of the policy to public scrutiny. The integrated policy statement, plus all of the review commentary, will be released to the public with appropriate notification—the manner and extent of which should be enshrined in regulation. The purpose of this release is to gain more widespread public input than is available to the EAC by virtue of their "in-house review." A limited period of time will be provided for such review (30–60 days); however, we foresee a pro-active Commission seeking this input.

RECOMMENDATIONS

- 5.19 Having evaluated the integrated policy statement, the EAC may recommend Cabinet approve any policies which have no environmental implications or are environmentally sound. The EAC shall make these policies, along with its commentary, public.
- 5.20 The EAC shall open the review of any policy with broad environmental consequences to public scrutiny for 30–60 days. The IPS and all input from the EAC policy review shall also be released to the public.

"We are like a forgotten people in the far North.

"The Premier of Saskatchewan has not recognized the people in the far North for many, many years, and there is not once that our work has been taken to be talked about in the legislative government in Regina . . .

"Our Treaty Indians were never recognized . . . especially when you talk to the Federal government bureaucrats down south. It's just like the wind blowing through their ears; they never take a positive attitude to what we're trying to say up here."

—Louis Chicken
Senator
Fond du Lac

5.4.3 THE POLICY REVIEW COMMITTEE

Depending on the nature and extent of input by the public, and the degree of concern raised within the EAC review, the Commission will determine if further, more formalized, public consultation would be useful.

The EAC may establish a policy review committee (PRC) to gather additional public input and report its findings. The size and composition of the PRC will vary according to the nature of the policy and the complexity of the issues involved. Each committee shall have among its membership a Commissioner, a member of the TRC, a representative of the initiating department and public stakeholders. Within the latter category, we foresee representation from industry, agriculture, Chambers of Commerce, urban, rural and Native governments, non-governmental organizations and public interest groups.

It will be the responsibility of the EAC to determine the nature of the public forum. Their options might include public meetings, information sessions, hearings and, in the case of major policy initiatives with significant environmental trade-offs, Boards of Inquiry.

RECOMMENDATIONS

- 5.21 The EAC shall have the power to establish a policy review committee (PRC) to gather additional public input and report its findings.
- 5.22 The PRC shall have among its membership one Commissioner, a member of the TRC, a representative of the initiating department and public stakeholders.
- 5.23 The EAC shall determine the nature of the public forum, be that public meetings, information sessions, hearings or Boards of Inquiry.

5.4.4 POLITICAL DECISION-MAKING AND ACCOUNTABILITY

Having completed the public forum stage, the EAC, or the PRC if one has been established, will make a report on the input received. The PRC or EAC shall forward a summary of recommendations to the Cabinet through the initiating Minister, regarding the environmental sustainability of the policy proposal. These recommendations, and reasons for them, will be made public. However, it is worth noting that ultimate decision-making regarding the acceptability of the policy is left with those who are politically accountable.

In this regard, policy assessment is fundamentally different from site-specific assessment. Site-specific decisions should not be politically influenced when the environmental impacts are assessed. However, policy decisions are primarily political decisions, and for the EAC to usurp this function is contrary to democratic principles. Because policy assessment is completed in an open and informed manner, politicians may choose environmentally unsound policies at their own peril.

Sometimes, for political reasons, Government does not want new policies brought before the public before they are formally announced. Hopefully, in these cases, the initiating department will have already considered the environmental implications of the policy.

However, it is important that the public has the opportunity to examine whether environmental implications have been considered when policies were formulated. The public must be provided a means to initiate assessment of individual policies. To avoid the possibility of frivolous and vexatious requests, duplication or a deluge of requests,

such petitions shall be screened through the EAC. As an independent commission, the EAC will determine the legitimacy and, if necessary, the priority of such requests. The EAC will then approach individual departments with valid inquiries regarding the environmental implications of a specific policy.

RECOMMENDATIONS

- 5.24 The PRC shall make their recommendations regarding the environmental soundness of the policy, public at the same time they present them to the Minister of the initiating department and Cabinet.
- 5.25 The public must be allowed to petition the EAC in order to initiate the process for individual policies to be assessed.

6.0 Site-Specific Assessment and Beyond

- 6.1 Initial Screening
 - 6.1.1 The Questionnaire
- 6.2 The Formal Proposal
 - 6.2.1 Submission
 - 6.2.2 Significant Impacts
 - 6.2.3 Mandatory Lists
- 6.3 Proposal Outcomes
 - 6.3.1 Class Assessments
- 6.4 Activity Review Committee
- 6.5 Technical Review Committee
- 6.6 The Role of the Proponent
- 6.7 The Environmental Impact Statement
 - 6.7.1 Mitigation
 - 6.7.2 Decommissioning and Abandonment
- 6.8 Environmental Impact Statement Review
 - 6.8.1 Public Review
- 6.9 The EAC Decision
- 6.10 Monitoring Ongoing Activities
 - 6.10.1 The Role of the Environmental Auditor
 - 6.10.2 Decommissioning

(See Figure 2, inside back cover)

The concerns and recommendations of the public, regarding site-specific assessment, can be incorporated into the existing process. However, to ensure openness, efficiency and fairness, some fundamental changes to the process are necessary.

6.1 INITIAL SCREENING

Public concern was frequently raised regarding which proposed activities should be subject to formal screening. The present legislation and practice leaves the decision primarily in the hands of the proponent. This assumes not only that proponents are aware of the requirements of the environmental assessment (EA) process, but that they have the necessary expertise to initially decide whether or not a proposal should be submitted. This has led to a number of activities bypassing the process completely, without any systematic consideration of environmental impacts.

The public has also expressed concern that small, seemingly innocuous, activities proceed without being assessed, and are subsequently found to have significant impacts. We cite, for example, individual oil wells in Lloydminster and small-scale irrigation projects on farms throughout the province. It is necessary, therefore, to establish a triggering mechanism to ensure that all proponents at least consider the possible impacts of their initiative as early as possible in the planning process.

This step must be simple and rapid, so that projects with no environmental impacts may be screened out of the process early. However, all projects will be initially screened and subject to the process unless exempted, by the EAC, at that stage.

6.1.1 THE QUESTIONNAIRE

Initial screening will be done by using a generic questionnaire which shall be submitted, to the Environmental Assessment Commission, by all proponents at the "idea" stage of a proposal. This is meant to flag every activity that may affect the environment in any significant way.

It is important to establish a broad label for those activities which must be subject to the new EA Act. In order to provide a degree of consistency between jurisdictions, the following definition should be considered:

"activity" shall mean any industry, activity, undertaking, project, structure, work, exploratory venture, test well or feasibility study, and includes a modification, extension, abandonment, demolition and/or rehabilitation thereof.

We recommend that the questionnaire be developed by the EAC in consultation with the Technical Review Committee (TRC) and the Environmental Assessment Branch of SEPS. As this is the first step in the new process, it is necessary that this questionnaire be developed as quickly as possible to ensure the viability of the rest of the site-specific assessment process.

As it presently stands, proponents informally consult with individual departments of government at this stage seeking planning, economic and regulatory information pertaining to their activity. It will be the responsibility of these departments to alert proponents to the necessity of submitting an initial screening questionnaire as part of their earliest activities.

While all proponents must submit a questionnaire, the screening criteria will be such that many activities will be exempted from the process at this stage and permitted to proceed subject only to other applicable regulatory processes. (See Appendix III). In order to be exempted from the process, it must be abundantly clear that the activity will have no significant negative environmental impacts. For example, while one house in a subdivision will not need to be screened, a contractor beginning to develop a subdivision will need to screen the activity before proceeding with it.

An idea may be rejected or re-routed at this stage if it is inconsistent with environmentally sound policy. We acknowledge that at this point there might not be a policy in place or, if there is a policy, it may not yet have been reviewed from an environmental perspective. If such is the case, the proponent will be required to seek direction about the policy from the appropriate government departments before an initial screening assessment is possible.

Although this measure may seem severe, this will ultimately work to the advantage of the proponent. Unnecessary expenses will be avoided and, in time, only environmentally sound projects will be proposed.

Those activities which will require the preparation of a formal proposal (the next stage) will have been flagged in the screening questionnaire by virtue of their size; dollar value; extent of resource use; new technology; possible impacts (site-specific or cumulative) on the environment; or an identifiable and valid public concern regarding the environmental implications of the proposed activity.

The purpose of the initial screening questionnaire is not to make definitive

decisions about the magnitude of environmental impacts but to alert and educate proponents about the possible environmental implications of their activities at this early stage, when incorporating environmentally sound practices and alternatives are still feasible.

Proponents who recognize that their activity will, in all likelihood, require more detailed examination, may, for the sake of expediency, bypass the questionnaire and proceed directly to the proposal stage.

If the issue remains in doubt, or negative implications are evident, a proposal will be required. It is also possible that the extent of the negative impacts of the activity are such that, even at the initial screening stage, the EAC may validly determine that the proposal is environmentally unacceptable and warrants rethinking. The ultimate initial screening decision shall rest with the EAC.

RECOMMENDATIONS

- 6.1 All activities will be initially screened. A generic questionnaire shall be submitted to the EAC by all proponents at the idea stage of a proposal.
- 6.2 A new definition of "activity" shall be established and incorporated into the new EA Act. An "activity" shall mean any industry, activity, undertaking, project, structure, work, exploratory venture, test well or feasibility study, and includes a modification, extension, abandonment, demolition and/or rehabilitation thereof.



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- 6.3 The questionnaire shall be developed, as soon as possible, by the Environmental Assessment Commission in consultation with the Technical Review Committee and the Environmental Assessment Branch of SEPS.
 - 6.4 It will be the responsibility of each agency or department to alert proponents to the necessity of submitting a screening questionnaire as part of their initial activities.
 - 6.5 At the screening stage, the EAC may decide to exempt activities from going through the formal proposal stage; require proponents to submit a formal proposal; re-route activity proposals if they are inconsistent with environmentally sound policy; or reject a proposal that is environmentally unacceptable.
 - 6.6 The ultimate initial screening decision shall rest with the EAC.

6.2 THE FORMAL PROPOSAL

6.2.1 SUBMISSION

Once the EAC has decided that the proponent must submit a proposal, it is the responsibility of the proponent to prepare and submit the necessary documentation. The current guidelines used to prepare an Environmental Impact Assessment (EIA) (See *Supporting Documents for "The Future of Environmental Assessment in Saskatchewan,"* pages 11-12) shall be incorporated into regulation.

Upon receiving a proposal, it is the responsibility of the EAC to determine if a full EIA is necessary. Before any decision is made, the EAC will make the proposal public and will seek input from all stakeholders (informal or otherwise). In addition, the EAC may consult experts, both within its organization as well as the Technical Review Committee, to determine the possible impacts of the activity.

RECOMMENDATIONS

- 6.7 Proponents shall be responsible for preparing and submitting the necessary documentation required in a formal proposal.
- 6.8 The current guidelines used for preparing an EIA proposal (pp.11-12, *Supporting Documents for "The Future of Environmental Assessment in Saskatchewan"*) shall be incorporated into regulation.
- 6.9 The EAC shall decide if a full EIA is necessary.
- 6.10 The EAC shall make all formal proposals public and shall seek input from all stakeholders before making any decision.

6.2.2 SIGNIFICANT IMPACTS

The decision as to whether an activity should undergo an environmental impact assessment, should be based on the significance of the possible impacts. However, the current statutory definition of "development" has been the source of major controversy—with good cause. Some say this section has been too liberally construed, allowing projects with significant impacts to pass through the system without full EIAs. Others say it has been too strictly construed, forcing activities with insignificant impacts to undergo full EIAs.

"Many agricultural and water resource management programmes appear not to have qualified as 'developments.' Such projects should be subject to the full critical review by environmental regulatory bodies as are mines, pulp mills or any other major projects."

—Jim MacPherson
President
MacPherson
Consultants Ltd.

The problem rests not with the definition but with the orientation of the section. We should not be looking to label a project a "development," but should address the significance of possible impacts if the project proceeds. If these impacts exceed stated criteria—a decision made by the EAC based on available input, past experience and baseline data—then an activity shall be subject to a full EIA.

This decision will be subjective to a degree. However, criteria in the present Act under section 2(d) must be more carefully defined and then incorporated into the new legislation. Section 2(d) will then become the test for "significant impacts" and, if consistently and rigorously applied by an objective EAC, all parties will be fairly served. As time goes on, a pattern of the threshold for negative significant impacts will become evident to all stakeholders. This knowledge will provide a degree of surety while retaining some flexibility for the EAC to make decisions on individual cases.

After reviewing definitions from across the country, the following definition of "significant impact" is proposed.

A significant impact shall be considered likely to occur when an activity may, in the opinion of the EAC:

1. have an effect on any unique, rare, threatened or endangered species, habitat or physical feature of the environment;
2. have a detrimental effect on critical habitats or migration routes, candidate or established ecological reserves, parks or parkland reserves, protected wilderness, natural areas, conservation projects or historic sites;
3. cause a detrimental effect on air, water or soil quality, involve the discharge of any pollutants, or result in the creation of hazardous wastes, residues or by-products;
4. involve a substantial use, alteration or irreversible commitment of any provincial resource;
5. pre-empt the use or potential use of any provincial resource, or have an adverse impact on another resource;
6. cause substantial changes in noise, odours or visual conditions that adversely affect adjoining areas;
7. adversely affect human health and safety, including that of persons not associated with the activity;
8. cause a substantial change in the social, cultural or economic conditions, or overtax existing services or facilities, within affected neighbourhoods, communities or regions;
9. be a pre-condition to, or necessary part of, implementing another activity which may have a significant impact;
10. cause secondary or indirect effects, or substantially increase or expand the scale, extent or rate of an existing activity—any of which is likely to significantly affect the environment;
11. generate substantial environmental concern on the part of, or controversy among, recognized stakeholders;
12. establish a precedent or involve a new technology likely to have a significant present or future environmental effect.

There is a danger in attempting to define all activities which shall be subject to EIA, either within the Act or regulation. If environmentally sound decision-making is the objective of the legislation, it is impossible to include all activities which may have significant impacts in a list. Environmental variables can lead to otherwise innocuous projects, normally exempt, needing an EIA. However, if significance of impacts is the criteria rather than type of activity, consistency and surety will be upheld.

RECOMMENDATIONS

- 6.11 The decision as to whether a project should undergo EIA shall be based on the significance of the possible impacts.
- 6.12 Present criteria in the Act under section 2(d) must be more carefully defined and incorporated into the new legislation.
- 6.13 A new definition of "significant impact" shall be established and incorporated into the new EA Act.
- 6.14 Environmentally sound decision-making shall be the objective of new Environmental Assessment legislation.

6.2.3 MANDATORY LISTS

It was stressed by many participants that certain activities, regardless of their location, will have significant impacts. It was, therefore, suggested that lists of projects which would automatically require an EIA might prove time-saving to all involved.

This may be acceptable if it is clear that such lists (incorporated in regulation) are merely seen as supplementing the significant/insignificant decision to be made by the EAC. An into-the-system short-cut is not an alternative to individual activities being screened. Those activities on the list will enter the system with a proposal and with the knowledge that an EIA is necessary.

Lists of activities which will automatically require an EIS could be prepared using regulations from other jurisdictions and past experience in Saskatchewan. SEARC strongly opposes compiling any list of activities which would be automatically exempted from the process. If environmental protection is the objective of this legislation, then we must err on the side of inclusion—especially at the screening stage.

RECOMMENDATIONS

- 6.15 Supplementary lists of projects which automatically require an EIA may be incorporated into the new EA Act.
- 6.16 Lists of those activities which would be automatically exempted from the initial screening process should not be compiled or used as the basis for decision-making.

6.3 PROPOSAL OUTCOMES

After reviewing a proposal, one of three decisions is possible. The EAC may decide that an activity proposal shall be rejected; approved subject to other applicable regulations beyond the EA Act; or shall require a full EIA to be undertaken before a decision can be made.

In the worst case scenario, from the perspective of the proponent, the EAC may determine that the activity, as presently proposed, is environmentally unacceptable and cannot proceed further. The Commission will advise the proponent to find a more environmentally sound process, place and/or activity and submit the revised proposal.

Secondly, the project may be judged environmentally sound as proposed and can be approved subject to other applicable regulations beyond the EA Act. However, proposals which proceed without a full EIA may be required to employ an approved environmental protection plan (EPP). Activities such as exploratory mining ventures, test wells, feasibility studies and class assessments, which have lacked sufficient environmental regulation to date, might well fit into this category.

Environmental protection plans presently exist as an informal vehicle for environmental protection. They shall be incorporated into regulation as a viable tool for environmental protection. Proponents who believe their activities could eliminate negative environmental impacts will be encouraged to include an EPP with their proposal. Moreover, the EAC can issue a conditional go-ahead, subject to the submission of an acceptable EPP. If a proposal is approved, subject to an EPP, the EAC will issue an EPP permit. Thus, proponents will be further ahead since their EPP will be ready to implement.

Thirdly, because of the possible significance of the impacts, or because the extent of the impacts is, as yet unknown, the Commission may require that a full EIA be undertaken.

If a full EIA is required, the proposal may act as the basis for guidelines and provide baseline data for the proponent.

It is hoped that, through the use of these three alternatives, activities which have previously slipped through the cracks will be flagged and, at a minimum, screened. For example, exploratory mining, test wells and feasibility studies will be subject to initial screening and, if necessary, screening at the proposal stage. Project changes, alterations and expansions, another area of concern, shall also be subject to screening.

If proposals and/or EPPs have been carefully prepared, the turn-around time necessary for the EAC to review them should be minimal. Although it is inappropriate to place specific time-lines on proposal review, as each will differ depending on the size and complexity of the proposal, 30 days is probably sufficient for most reviews.

All decisions of the EAC regarding proposals will be made public. The method and extent of public notification shall be incorporated into regulation, bearing in mind such factors as project location, media alternatives, cultural differences, stakeholder interests and economic impact.

It is especially important that extensive notification be given in the case of an EPP permit or when a full EIA is required.

RECOMMENDATIONS

- 6.17 The EAC shall have ultimate decision-making power about the fate of formal proposals which have been screened.

"Section 8(3) is another loop hole. What the government has done is allowed a change to occur for four years under a feasibility study because feasibility studies are not defined under the Act. They were meant to be regulated but the regulations were never made. And so, it makes just a beautiful loop hole for the Government."

—Maisie Shiell
Regina Seniors
Environmental Group

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- 6.18 The EAC may reject an activity proposal; approve it, subject to an environmental protection plan and other applicable regulations beyond the EA Act; or require the proponent to undertake a full EIA before a decision can be made.
 - 6.19 The use of environmental protection plans (EPPs) shall be incorporated into regulation.
 - 6.20 All decisions of the EAC, regarding proposals, shall be made public. The method and extent of public notification shall be incorporated into regulation.

6.3.1 CLASS ASSESSMENTS

The EAC may identify the need for a class assessment as a form of EIA. This circumstance will generally apply when a proposal concerns an activity in which individual operations and associated impacts are relatively minor and localized but repeat frequently. By grouping individual components of a larger activity, which is spread over a wide area or a long period of time, the EAC can consider its cumulative effects. Examples might include such activities as oil and gas wells, small-scale roads, wetland conservation developments, municipal landfills or agricultural developments like irrigation.

In order to complete a class assessment it may be necessary for co-operation and cost-sharing on the part of more than one proponent. It is also possible that certain aspects of predicting and evaluating the impact of a class assessment may have to be dealt with in general, rather than specific, terms. However, proponents will find class assessments are more efficient than carrying out a number of smaller site-specific EIAs. Many issues, such as public concerns, bio-physical and socio-economic effects, mitigation and monitoring conditions, can be dealt with at a generic level because of the similarities in the activity.

However, an approval following a class assessment does not necessarily provide the go-ahead for individual activities within the class. Activities must still be screened, though they may not need to go through an EIA at this stage. Each could probably be approved on the basis of a site-specific environmental protection plan (EPP) submitted by the proponent as part of a formal proposal.

RECOMMENDATIONS

- 6.21 Class assessments shall be applied to activities in which individual operations and associated impacts are relatively minor and localized but repeat frequently.
- 6.22 Individual activities must be screened by the EAC, even if the activity fits within the boundaries of an approved class assessment.

6.4 ACTIVITY REVIEW COMMITTEE

If the decision is made that a full environmental impact assessment is necessary, then an Activity Review Committee must be appointed by the Environmental Assessment Commission. The ARC shall be responsible for shepherding the proposed activity through the environmental assessment process until the ARC review is released. The committee shall consist of a minimum of three (3) Commissioners, and should also include: an appointee of the proponent; an environmental review expert (in most cases, a Technical Review Committee member); a project officer (assigned by the EAC); a regional representative of the public; and where appropriate, a member of the Native community. The composition of the committee may change as the need arises.

The ARC will draft site-specific guidelines for the EIA. These will be done with input from the TRC, in-house experts, the proponent and interested members of the public. The guidelines might be compiled from a bank of precedents and generic guidelines. While preparing guidelines might be time-consuming initially, they will, in time, be quickly drafted if resources are made available to the EAC to establish an adequate data base including guideline precedents. Standard methods of collecting data shall be incorporated when drafting guidelines.

The existing guidelines presently being used shall also be amended to reflect the need for proponents to carry out a public consultation plan within the parameters of their EIA. The guidelines shall require proponents to detail the methods they will use to seek public opinion from the immediate local stakeholders affected by the proposed activity. This public consultation plan shall outline the proponent's public relations strategy from the proposal stage through until the EIS is complete.

The ARC will act as a contact between the proponent and technical experts throughout the course of the EIS preparation and presentation. The ARC will have public representation among its membership; it will also ensure all guideline specifications are met. Once the EIS is complete, the ARC then co-ordinates the distribution and review of the EIS by all stakeholders.

In order to simplify not only the EIA process, but other regulatory requirements, the ARC, through their TRC member, will alert proponents to those additional regulatory



requirements which might apply to their activities. The background work for the preparation of the EIS will serve the EA process and could act as a springboard for the proponent to identify and cope with other government regulatory requirements. Thus the proponent should be able to avoid unnecessary delays if and when the EIS is approved. (See Appendix III for a list of licences and permits that may apply in addition to the environmental assessment requirements).

RECOMMENDATIONS

- 6.23 If a full EIA is necessary, an Activity Review Committee must be appointed by the EAC.
- 6.24 The ARC's responsibilities will be to draft and administer guidelines, co-ordinate the review of the EIS and communicate with all affected stakeholders.
- 6.25 The ARC will act to ensure all guideline specifications are met.

6.5 TECHNICAL REVIEW COMMITTEE

The role of the Technical Review Committee (TRC) should be both pro-active and reactive. In the existing process, the TRC provides expert input on the possible significant impacts of a proposal, suggests when an EIA should be required, and contributes to guideline specifications. Once the EIS is complete, the document is reviewed by that same committee in order to determine its technical adequacy and overall acceptability. Its contribution is both desirable and valuable, as often decision-makers lack the technical expertise to make such decisions.

However, the present process does not allow the TRC to function efficiently. Individual members are charged with environmental assessment responsibilities in addition to their usual workload. Bearing in mind this workload and the complexity of many of the studies, turn-around times for proposal and EIS review are totally unrealistic. In spite of this, the members of the committee have continued to struggle along doing "the best they can."

There has been little opportunity for members of the TRC to engage in an integrated discussion about site-specific proposals and issues. Thus, decisions have been made based on the individual assessment of each TRC member, not as a result of discussing the proposal as a team. Individual committee members are also concerned about possible conflict of interest when their department submits a proposal. It is often unclear whether they are to objectively judge the activity or advocate its approval in these circumstances.

Clearly some changes are necessary. However, it is evident that the EAC cannot support all of the technical staff which will be necessary to review activity proposals and assessments. Neither is it desirable to duplicate services already in place.

The present representation by department on the TRC is basically sound. However, these individuals are overburdened and their EA duties have not always been a priority. An individual in each relevant department and/or branch shall be charged, exclusively, with the responsibility of EA. These individuals will co-ordinate the review of proposals and EISs within their department. Turn-around times will be reduced, and it is our hope that the quality of the review will improve.

Members of the TRC will also report to the ARC those regulations (licences, permits, etc.) which may be required for each activity to proceed once the EIA is complete.

Thirdly, the TRC members shall actively promote establishing environmentally sound policies within their departments. Before the department introduces a new policy, the TRC member shall be responsible for ensuring environmental acceptability is considered. If a proposal is generated by their department (Government), or through their department (by private industry), the TRC member will again ensure that the underlying policy has been environmentally assessed.

RECOMMENDATIONS

- 6.26 The TRC shall be restructured to assume both pro-active and reactive roles.
- 6.27 Individuals in each relevant department and/or branch shall be charged, solely, with the responsibility of environmental assessment.
- 6.28 TRC members shall co-ordinate the review of proposals and EISs within their department; report additional regulations required by each proposal to the ARC; and work pro-actively to establish environmentally sound policies within their department.

6.6 THE ROLE OF THE PROPONENT

In keeping with present practice throughout Canada, the proponent will be responsible for preparing the EIS. The justifications for this practice have been well documented and remain valid.

It is also the responsibility of proponents to seek out and incorporate public views and concerns in their EIS. Proponents must initiate an ARC approved public consultation plan at the proposal stage, which will continue until the EIS is complete.

We acknowledge that it may be in the proponent's interest to submit an EIS which favours their proposal. However, the system ensures, through the TRC requirements, independent consultation where necessary, and public consultation, that the proponent will submit an objective and complete EIS.

RECOMMENDATIONS

- 6.29 The proponent will be responsible for preparing the EIS.
- 6.30 Proponents must seek out and incorporate public views and concerns in their EIS, by undertaking an ARC approved public consultation plan which shall begin at the proposal stage and continue until the EIS is complete.

6.7 THE ENVIRONMENTAL IMPACT STATEMENT

The EIS must address all those "environments" affected by the activity including the bio-physical, socio-economic, cultural, spiritual, archaeological, historical, and the aesthetic environment. However, the guidelines will focus on the critical elements of these environments.

Proponents must predict and evaluate the positive and negative impacts of their activity, from the concept of the activity through construction, operation and abandonment. Proponents shall also identify alternative means of carrying out the activity.

However, it shall not be the responsibility of proponents to gather all-encompassing baseline data. Their EIA should be confined to considerations relevant to their activity. If a provincial environmental data system were established, then site-specific guidelines could stress the immediate surrounding impacts while placing them within a regional context. When this is functional, proponents will not be unduly burdened and can concentrate on considering the implications of their own activity.

In order to make full use of this information, methodologies in collecting and evaluating data must be standardized. A consistent and fair approach in assessing activities will result, and overlapping research will be reduced. (See Section 8.3 for more detail).

RECOMMENDATIONS

- 6.31 The EIS must address all environments affected by the activity, from concept through construction, operation and abandonment.

6.7.1 MITIGATION

Proponents must identify the mitigation strategies they propose to address the effects of their activities, within the scope of their EIA. The first priority shall always be to eliminate negative impacts by choosing the alternatives (formats, procedures, techniques, designs, siting) which prevent such effects. However, where negative impacts are still expected, the second priority shall be to reduce the severity of the impacts by doing the utmost to restore damaged features and resources, including substitution for irreplaceable losses.

Finally, where the effects cannot be prevented or adequately dealt with through mitigation, it may be necessary to allow the proponent to propose compensation. This option shall be considered as a last resort. In the case of socio-economic impacts, it may take the form of monetary payments to directly affected individuals.

While compensation may be the least-cost or easiest alternative for proponents, it was clear to SEARC that the public does not consider monetary compensation to be an acceptable form of mitigation. Certain impacts will, therefore, be recognized as unmitigable and perhaps unacceptable. Certainly, if environmental protection is the goal, then monetary compensation for significant negative bio-physical impacts should no longer be acceptable. The bottom line is: the environment can no longer be compromised.

RECOMMENDATIONS

- 6.32 Proponents must identify mitigation strategies for addressing the effects of their activities, within the scope of their EIA.
- 6.33 Proponents shall make every effort to eliminate negative impacts of their activities by choosing an alternative means of carrying out the activity.
- 6.34 When proponents cannot eliminate negative bio-physical impacts, they shall reduce the severity of the impacts by doing all they can to restore damaged features and resources, or where necessary, substitute for irreplaceable losses.
- 6.35 Monetary compensation is not an acceptable alternative to mitigation, though it may be necessary to alleviate negative socio-economic impacts.

"If environment is a concern, then you have to start talking from ideals and principles. And if from ideals and principles you come down to what is practical or what is common sense and what you can enforce—there is no sense having legislation on the books if you cannot or will not enforce. It's being hypocritical."

—Ed Magis
Yorkton Mayor

6.7.2 DECOMMISSIONING AND ABANDONMENT

Certain specifics of decommissioning may be difficult to accurately predict. However, it is imperative that proponents plan, in their EIS or EPP, for complete environmental reclamation when the activity is abandoned.

Site decommissioning and abandonment are addressed in certain industries by regulation pursuant to other legislation (e.g. the mining industry). The existence of such regulations does not negate the desirability of incorporating decommissioning into the EIA requirements—it merely becomes a question of degree of detail.

On the other hand, many activities with long-term impacts are not otherwise forced to address the environmental implications of terminating their activities. Accepting that one of the objectives of environmental assessment is to prevent negative environmental impacts before the fact, clearly, consideration of project abandonment falls within the mandate of an EIA.

We recognize that activities with a short life span will be expected to provide explicit details about their decommissioning plans, while an activity with a life span of many decades may provide a general plan when proposing their activity. It is possible that such long-term activities may later require a separate review by the EAC for the proponent's specific decommissioning proposal. (See Section 6.11).

RECOMMENDATIONS

6.36 Proponents must plan, in their EIS or EPP, for complete environmental reclamation when the activity is abandoned.

6.37 Long-term activities may require a separate review by the EAC for a specific decommissioning proposal.

6.8 ENVIRONMENTAL IMPACT STATEMENT REVIEW

As individual studies are completed, the proponent is encouraged to submit these EIS components to the ARC for review and feed-back. If, in the opinion of the Technical Review Committee, a particular area of study is incomplete, the proponent will then have the opportunity to supplement the information presented without causing undue delays to the review of the full EIS. This will not be possible in all circumstances, however it is available to the proponent as a time-saving device, and will help ensure a quicker turn-around time in the technical review of the full EIS.

It should be made clear that the ongoing review is not an alternative for the proponent to access free expertise. Should the TRC feel a section of the EIS is incomplete, it will simply return the document to the proponent for further clarification. Moreover, the interim approval regarding the technical adequacy of the EIS data is in no way a guarantee of final EIS approval.

Because the TRC committee will be made up of government employees, we anticipate that criticisms regarding Government assessing Government activities will once again be raised. Both the public and government employees are uneasy about the potential for conflict. SEARC acknowledges the validity of this concern and, whether it is a question of fact or perception, the issue must be resolved.

It is recommended that the ARC be empowered to seek independent expertise to evaluate EIS input, when they deem it necessary. Peer review by consultants outside

"We need to be assured that a complete "no" to the project is also an acceptable answer. If "no" is to be an acceptable answer, it goes without saying, that projects cannot be allowed to proceed before the EA process is complete. The EA process must be used as a tool for decision-making, not as a way of justifying decisions after the fact."

—Ann Coxworth
Saskatchewan
Environmental
Society

of government shall alleviate concerns about conflict of interest and may also serve to resolve issues where there is technical controversy.

When the full EIS is forwarded to the EAC, the ARC shall examine the EIS for completeness and adequacy. The EIS shall also be released to the public when it is submitted. The ARC shall, if it finds the EIS to be incomplete in any way, return the EIS to the proponent and require further input. This may include requiring the proponent, for example, to conduct further tests and studies, or to consult more adequately with the public.

If the ARC accepts the EIS as complete, it shall draft and release an objective, analytical review of the bio-physical and socio-economic impacts of the proposed activity. This review, along with all of the technical review documents, will be made available to the public and the proponent. These documents should aid the public in understanding the proposed activity and identifying its impacts.

RECOMMENDATIONS

- 6.38 The review function of the ARC may be on-going in order to ensure a quicker turn-around time in the technical review of the full EIS.
- 6.39 The ARC shall be empowered to seek independent expertise to evaluate EIS input.
- 6.40 The ARC shall release the completed EIS and all technical review documents to the public at the same time as it is submitted to the ARC.
- 6.41 After reviewing the completed EIS, the ARC shall release its review of the bio-physical and socio-economic impacts of the proposed activity to the public and the proponent.

6.8.1 PUBLIC REVIEW

The three Commissioners sitting on the ARC, independent of the other members of the ARC, will then receive public input regarding the proposed activity. Criticisms have been levelled at the present EIS public review procedures. Proponents maintain that the existing 30 day time-frame is sufficient for meaningful input from the public while ensuring the continued economic viability of the activity. On the other hand, the public maintains that a 30 day review period is insufficient, especially in the case of major activities. As well, complaints were received that EIS documents were not available at the designated public locations until well into the review period.

The new process will ensure that the time necessary to review the complete EIS is limited, while still allowing the public to fully participate in the process from start to finish. The new process guarantees that the public has been informed at the proposal stage, is represented on the ARC, has its concerns incorporated into site-specific guidelines, and is consulted by the proponent during the EIS preparation. Because the public has access to the EIS at the same time as it is presented to the ARC, a 30-day public review period from the time the ARC releases its review of the EIS is not unreasonable and should be legislated accordingly. If required, further public consultation shall follow.

Stakeholder funding will continue to be made available. (See Section 7.2). However, if the process encourages co-operation and flexibility from the earliest stages of the proposal, it should result in environmentally sound proposals moving through the

system with greater ease and efficiency. By addressing concerns as they arise, the new process should avoid problems and confrontation before the EIS is released.

The level of public concern shall determine the format for the public hearing stage. Options include written comment, public hearings or public meetings as determined by the Commissioners. There should be no need for Boards of Inquiry in site-specific environmental assessments, as the policy assessments will have already been completed.

Providing this is the case, the purpose of public consultation at this stage of the process is to gain additional input regarding social and bio-physical impacts and possible mitigation strategies. Public hearings will usually be relatively informal in nature, since the "big issue" questions will have been addressed already at the policy assessment stage. Since the public consultation function of an EIA will have already been satisfied at various points throughout the process, public hearings should be able to be relatively focussed.

In some cases, technical data or conclusions will be in dispute and a number of stakeholders may wish to have their experts appear before the Commissioners. These situations may also require more formal hearings. The Commissioners shall be empowered to conduct formal hearings in the manner that they feel is most appropriate, with regard to the fundamental principles of the process, especially fairness to the public and to the proponent.

In-put at the public review stage will be both scientifically and value based, but will not address the underlying policies. It is the role of the Commissioners to gather this information and to then weigh its merits before making their decision.

RECOMMENDATIONS

6.42 A 30-day period for the public to review the EIS shall be legislated in the new EA Act.

6.43 The Commission shall decide the forum for public review, and gather information before making their decision.

6.9 THE EAC DECISION

Having completed the public consultation, the three Commissioners will render a written decision, including their reasons, to the Minister of Environment and Public Safety and the public. One of two possible decisions will result. If the activity is found to be unacceptable, either from a socio-economic perspective or a bio-physical perspective, it will be rejected. If the activity is acceptable from both perspectives, the Commissioners may approve the proposed activity.

That a proposal must be reviewed and ultimately found to be acceptable from both perspectives is fundamental to the notion of environmental sustainability. If an activity is acceptable from a socio-economic perspective but will wreak environmental havoc, it cannot be sustainable. Similarly, an environmentally sound activity with long-term negative socio-economic impacts is not sustainable. If activity proposals are based on environmentally sound policies, the likelihood of an outright rejection is minimal.

It should be remembered that this is an Environmental Assessment Act and, while integrated decision making is desired, bio-physical impacts must be duly considered. Clearly, the Saskatchewan public values the "natural environment." It is necessary, therefore, to ensure that any EA process is a tool which emphasizes and preserves the

"No project (including policy or idea) should proceed unless it has been demonstrated (not guessed at or projected) to be environmentally sound and technically feasible and economically viable."

—Rod MacDonald,
Saskatchewan Action
Foundation for
the Environment,
Radville

integrity of that environment. The intrinsic tie between environment and economy is incorporated into this formula. By ensuring the integrity of each, the sustainability of both will be preserved.

The Minister has the right to vary the Commission's decision, substitute a different decision, or order a new hearing. However, the Minister must do so within 28 days, give written reasons for the decision, and make it public.

In approving an activity, the Commissioners will specify all of the conditions on which the approval is based. This will include other regulatory requirements and any monitoring and decommissioning duties the proponent must perform during the operational stage. The Commissioners may also require the proponent to post a performance bond. Its purpose would be to ensure that funds for anticipated mitigation or restorative work are available to the Government for later use.

RECOMMENDATIONS

6.44 The three Commissioners of the ARC shall have the power to approve activity go-ahead subject to conditions, or reject an activity. They must find the activity acceptable from both bio-physical and socio-economic perspectives if they are to approve it. Conditions of approval may include requesting the proponent to post a performance bond.

6.45 The three Commissioners shall submit their written decision regarding the acceptability of the activity to the Minister of the Environment, which shall be made public at that time.

6.46 The Minister may overturn the Commission's decision, but must do so within 28 days, give written reasons and make them public.

6.10 MONITORING ONGOING ACTIVITIES

The environmental assessment process cannot end with approval for the proponent to proceed. Numerous briefs and submissions emphasized that the present lack of mechanisms for follow-up to approval is a significant shortcoming. This is not to say that there is presently no monitoring; various agencies exercise their own regulatory authority. There is, however, a problem of providing the public with enough information to ensure confidence that the environment and their public health and safety are, in fact, being protected. There is a second problem in that, often, conditions associated with activity approval were not affected by specific regulations; neither were they monitored nor enforced. A third problem relates to the complete absence of any mechanism for evaluating the accuracy of impact predictions or overall effectiveness of mitigation measures contained in EIS reports.

We propose three roles for the EAC in monitoring how environmentally assessed activities operate: 1) to ensure enforcement of conditions attached to an activity's EA licence or EPP permit; 2) to ensure that the entire EA process is effectively meeting its objectives; and 3) to review, allow technical and public input, and approve final plans for decommissioning activities. To fulfill these roles, it will be necessary for close co-ordination with, but not replacement of, all of the agencies which now have regulatory responsibilities.

Proponents will begin the operational stage (Figure 2, inside back cover) by meeting all pre-operational conditions and obtaining all other relevant licences and permits. Any construction or development needed to facilitate the operations will then be undertaken

"We're doing a lot more than is necessary to meet monitoring standards, which we feel confident that we should. And if we can get it lower, we're going to get it lower, no matter what the assessment specification is."

"We have a pretty extensive monitoring system, yet [the public] isn't aware of what we're doing. Maybe monitoring information should become publicly available to the people in the area so they can see what you're doing. They become the judge of whether you're monitoring properly or not."

—John Mayor
Environmental
Engineer,
International Minerals
& Chemical Corp.
Ltd., Esterhazy

The present approach of obtaining information (e.g., water quality, air emissions, etc.) used in monitoring involves a combination of periodic inspections and reporting by the proponent. Data is obtained by, or submitted to, agencies such as branches of the Environmental Protection Division of SEPS. This shall remain the basic approach. Proponents will continue to bear a large share of the cost of monitoring. Meanwhile, regulatory agencies, which already have the mandate, expertise and experience, shall continue to carry out their responsibility of monitoring.

RECOMMENDATIONS

6.47 The EAC shall ensure conditions attached to an activity's EA licence or EPP permit are enforced; ensure the EA process is effectively meeting its objectives; and review, allow technical and public input, and approve final plans for decommissioning activities.

6.48 The present approach to monitoring shall be retained; proponents shall submit information to regulatory agencies as required, which shall be supplemented by periodic inspections by those agencies.

6.10.1 THE ROLE OF THE ENVIRONMENTAL AUDITOR

An Environmental Auditor shall be appointed to the Environmental Protection Division of SEPS to co-ordinate and oversee the monitoring process. The information obtained from all agencies shall then be consolidated and reviewed by the Environmental Auditor's office. The Auditor shall also ensure that proponents make regular reports of their compliance efforts available to the public. This will greatly benefit proponents from a public relations standpoint and provide the public with greater understanding and assurance of environmental protection.

The Environmental Auditor's office may learn of instances of non-compliance through regulatory agencies, the public or their own reviews. Individuals who alert the Environmental Auditor of violations shall be protected in the legislation. The Auditor will then inform the EAC of any violations of EA conditions. The EAC may then consider appropriate remedial action. (See Section 7.5).

The Environmental Auditor shall also report to the EAC on the overall status of environmental protection, monitoring and enforcement. This information shall be incorporated into an annual "State-of-the-Environment" report, which we propose should be prepared by the Strategic Planning Branch of SEPS.

It shall then be the responsibility of the EAC to use that information as crucial input in future policy review and site-specific assessment. The EAC must critically consider, "Is the EA process working?". Annual EAC Reports and annual State-of-the-Environment Reports, presented to the Legislature, will become indispensable to Government in the future.

RECOMMENDATIONS

6.49 An Environmental Auditor shall be appointed to the Environmental Protection Division of SEPS to co-ordinate, review and oversee monitoring.

6.50 Proponents shall be required to make regular, public reports summarizing their performance in complying with environmental protection regulations and conditions of EA approval.

"What we have most of the time is the Government monitoring itself: the old chicken being looked after by the fox type of deal."

—Gordon Carle,
La Ronge

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- 6.51 The EAC shall be informed of, and empowered to take appropriate action on instances of EA non-compliance, which have been brought to the attention of the Environmental Auditor.
 - 6.52 Individuals who alert the Environmental Auditor of violations, shall be protected in the legislation.
 - 6.53 The Strategic Planning Branch of SEPS shall be responsible for State-of-the-Environment reporting that incorporates status reports on monitoring and mitigation effectiveness and enables the EAC to evaluate the functioning of the EA process.

6.10.2 DECOMMISSIONING

The EAC must ensure adequate measures are taken when a proponent proposes to stop an activity. First, the proponent must submit a decommissioning plan to the EAC for review. In many cases this will simply be an updated or more detailed version of one previously considered by the EAC, during the assessment and review stages, and accepted in principle as a condition of project approval. The EAC will then determine the extent of further technical or public input needed prior to approving the plan.

Dismantling facilities, restoring the site and other reclamation work shall then be done. Finally, the appropriate regulatory agencies, co-ordinated by the Environmental Auditor, shall inspect the site to verify the decommissioning has been adequately completed. After receiving notification by the Auditor, the EAC, if satisfied that decommissioning obligations have been met, will determine when the performance bonds will be released.

RECOMMENDATIONS

- 6.54 Decommissioning plans shall be required of all proponents seeking to terminate activities.
- 6.55 The EAC shall, where applicable, approve decommissioning plans only after appropriate technical review and public input has been received.
- 6.56 Completed decommissioning shall be inspected by regulatory agencies under the co-ordination of the Environmental Auditor.
- 6.57 The EAC shall not, where applicable, end a proponent's obligations or release performance bonds unless adequate long-term reclamation is confirmed by the Environmental Auditor.

7.0 Specific Issues

- 7.1 Standing
- 7.2 Stakeholder Funding
 - 7.2.1 Background
 - 7.2.2 The Mechanics of Stakeholder Funding
- 7.3 Confidentiality
- 7.4 Retroactivity
- 7.5 Compliance and Enforcement
- 7.6 Interjurisdictional Issues

In the course of our discussion with the public, SEARC noted that several issues relating to the environmental assessment process were repeatedly raised. Due to the level of concern and the specific nature of these concerns, several of these issues have been considered in more detail and are discussed separately.

7.1 STANDING

Having established the need within environmental assessment legislation for a legislated right of access to information, it is also fundamental to the principles of EA to ensure that the public has standing at a number of points in the process. Public consultation must not only be encouraged, but must be guaranteed by the Act. If these opportunities are provided, the process will gain credibility and, more importantly, more environmentally sound and publicly acceptable decisions will result.

It is important that individual stakeholders have mechanisms available within legislation for appeals on questions of law. This right must be balanced with concerns regarding the efficiency of the process and the legitimacy of certain appeals. However, this right can be tempered by incorporating time limits for appeal and by requiring leave to appeal (wherein the legitimacy of the request must be established), rather than having an automatic access to the courts.

Specifics should be addressed by legislative draftspersons bearing in mind these underlying principles and rough suggestions.

RECOMMENDATIONS

- 7.1 The public must have standing at a number of points in the EA process. Public participation must not only be encouraged, but must be guaranteed by the EA Act.
- 7.2 Individual stakeholders must have mechanisms available within legislation for appeals on questions of law.

7.2 STAKEHOLDER FUNDING

7.2.1 BACKGROUND

The concept of stakeholder funding (as opposed to the negative connotation of intervenor funding) is a relatively new phenomena in environmental assessment. At present, only two other provinces, Ontario and Alberta, provide funding. Although not in the federal legislation (Bill C-78), the federal government has promised to include such a programme to complement its new environmental assessment initiative.

Saskatchewan set the pace by incorporating stakeholder funding in the Environmental Assessment Act when it was first introduced in 1980. Since that time, the provision has been removed from the Act. Although officials in the department of Environment and Public Safety assured SEARC that money was still available pursuant to the Government Organizations Act, this provision is almost unknown to the public.

Stakeholder funding shall be re-introduced and enshrined in the EA legislation. A stakeholder funding programme must also be actively publicized when the legislation is first introduced and at the time of individual EIAs. This is not to imply a monetary "free-for-all," but that limited and controlled funding will be available to address legitimate public concerns.

The views of participants at our public meetings regarding stakeholder funding varied. Certainly, members of the general public were anxious to revive the practice, although representatives of industry offered a mixed reaction. In the latter case, the views ranged from support of the proposition to outright rejection. Those representatives of industry most opposed to stakeholder funding objected to funding the "opposition." They contended illegitimate positions should not be publicly or privately funded.

Although we acknowledge this position, SEARC endorses the opinion of the majority who maintained that stakeholder funding improved opportunities for positive input to the EA process. If criteria can be established which determines the legitimacy of funding requests, the ultimate result should be worthwhile for all participants. Stakeholder funding need not lead to an adversarial climate, but can be viewed as an opportunity to gain further credible and reliable information.

RECOMMENDATIONS

- 7.3 Stakeholder funding shall be re-introduced and enshrined in the EA legislation.
- 7.4 Any stakeholder funding programme must be actively publicized when the legislation is first introduced and at the time of individual EIAs.

7.2.2 THE MECHANICS OF STAKEHOLDER FUNDING

In order for stakeholder funding to operate efficiently, criteria must be established as to when it is available, who it might be available to, and what it is available for. This information shall be made available to possible stakeholders early in the process. As a specific example, criteria might provide that stakeholder applicants, with like concerns and views, be jointly funded to eliminate duplication and maximize economic efficiency. This technique has been employed effectively in the recent funding of environmental/public interest groups providing input on the Great Sand Hills Land Use Plan consultations.

The Environmental Assessment Commission shall administer a stakeholder fund and an EAC Commissioner, who is independent of any ARC considering the activity

"It's very important that intervenors are facilitated in the very early stages of project planning, with the technical expertise through this board or through independent consultants, to evaluate projects more effectively. The net result for both the proponent and the community should be the development of the best project possible."

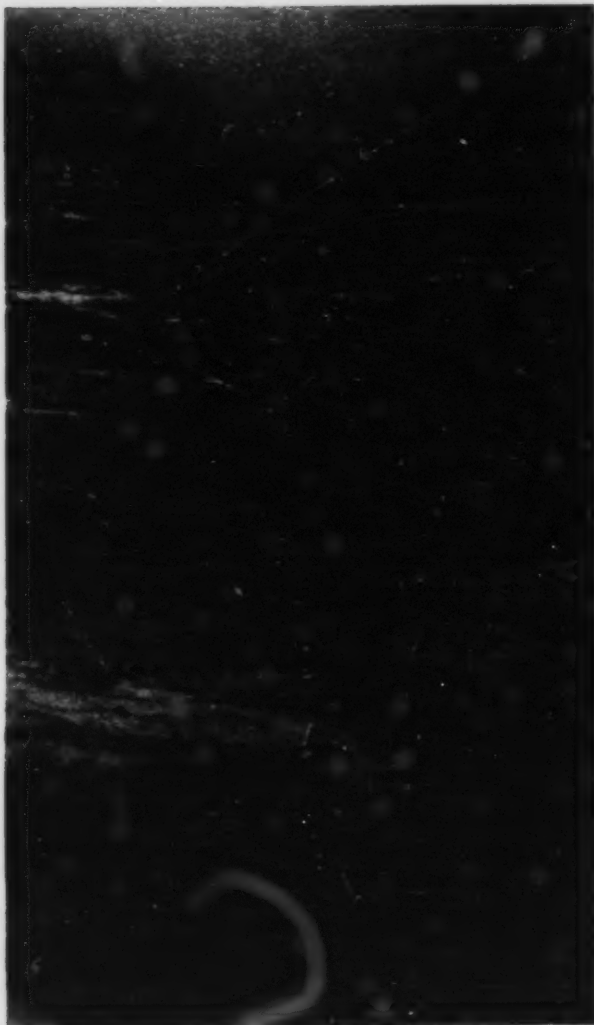
—Jay Lyons
Project manager
Lone Pine Resources
Calgary

proposal, shall be responsible for evaluating stakeholder funding applications. SEARC anticipates that such funding may be available at any point in the process where public input is contemplated after the proposal stage.

Although the EAC will be empowered by the legislation to consult independent experts to examine the information before it, this does not necessarily replace the retention of experts by stakeholders. In addition to funding such experts, other reasonable expenses including legal counsel, translation costs and personal expenditures associated with attending public hearings may be considered legitimate.

A major question remains as to who is to fund any stakeholder funding programme. Again, public input on the issue ranged from proponents having full responsibility, to the Government having it, to stakeholders establishing their own financial sources.

One option considered was to introduce a tax levy on resource exploitation as the basis for a stakeholder fund. However, this option proved unacceptable as it may well result in inequities. It is counter-productive to "tax" those who are engaged in environmentally sound planning in order to support those proponents who have not fully



considered the environmental implications and the public concerns regarding their activity.

SEARC suggests the following alternative. In the case of policy assessment, SEARC would expect Government to provide the necessary funding to ensure meaningful public participation. The nature and extent of that funding will be determined by the EAC in consultation with the department initiating the policy.

Site-specific assessments necessitate a different approach to stakeholder funding. In the case of joint ventures, both the proponent and Government should proportionally share the cost of stakeholder funding. If Government is the sole proponent, it should cover the full cost. In either case, stakeholders should raise a token proportion of their costs or provide non-monetary contributions in kind.

It is fundamentally unfair to expect that funding, be it from Government or industry, be limitless. The fundor should know up-front the maximum which they will be required to advance. Therefore, funding should be based on a percentage of the capital cost of any activity that requires an ARC to be established. In circumstances where capital costs are minimal, a percentage of operating costs might be the appropriate standard. For example, capital costs would be minimal for municipal landfill sites; operating costs would be considerably higher.

Proponents are primarily responsible for ensuring public consultation occurs until they submit their EIS. Reasonable and direct expenses of the proponent (as determined by the EAC) associated with their approved public consultation programme shall be credited to the proponent's percentage contribution of stakeholder funding. Once the EIS is submitted, the EAC will continue to administer what remains of the proponent's contribution.

Over time the necessity for stakeholder funding will decrease as confidence in the process (and the impartiality of the EAC) increases; as a data base of accessible reference materials is established; and as the assessments of Government policy are completed.

Bearing in mind the fundamental principles of EA, we believe that stakeholder funding is necessary to ensure an open and fair process. Despite SEARC's attempts to ensure these ends procedurally, we acknowledge that there is, and will continue to exist, an imbalance of resources among potential participants. Stakeholder funding attempts to redress this imbalance.

RECOMMENDATIONS

- 7.5 Stakeholder funding shall be available at any point in the EA process where public input is involved after the proposal stage.
- 7.6 Criteria must be established, and publicized, to determine the eligibility of funding demands.
- 7.7 The EAC shall administer a stakeholder fund and an EAC Commissioner who is independent of the ARC considering the activity proposal shall be responsible for evaluating stakeholder funding applications.
- 7.8 Government shall provide stakeholder funding for policy assessment. The level of funding will be determined by the EAC in consultation with the department initiating the policy.
- 7.9 In the case of joint ventures, both the proponent and Government shall share the cost of stakeholder funding. If the proponent is solely the Government, it should cover the full cost. Stakeholders should raise a token proportion of their costs, or provide non-monetary contributions in kind.

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- 7.10 Proponents shall fund stakeholders in site-specific assessments, based on a percentage of the capital cost or operating costs (whichever is greater), of any activity that requires an ARC to be established.
 - 7.11 Proponents shall be primarily responsible for carrying out approved public consultation plans until they submit their EIS.
 - 7.12 Reasonable and legitimate expenses (as deemed by the EAC) of the public consultation plan shall be credited to the proponent's percentage contribution to stakeholder funding. When the EIS is submitted, the EAC will continue to administer what remains of the proponent's contribution.

7.3 CONFIDENTIALITY

SEARC heard presentations regarding disclosure of, and access to, confidential information of both a commercial and technical nature. Industry representatives indicated that there is a need, in some circumstances, to keep specific information from public review. This may include a technical process which permits the proponent to have a particular advantage over the competitors in their industry. It may be technology which has been developed by or licensed to the proponent. In some cases, it is argued that this information cannot be released or divulged because of a prior agreement with the developer of the technology.

In addition to technical information, several submissions maintained it was necessary to keep certain commercial information from the public and thus from competitors. This included such market information as contractual agreements and selling prices, for example.

The public and other concerned stakeholders argue that all information about an activity must be fully disclosed if the environmental assessment process is to be open and fair. It is important to reiterate that with changing societal values, the EA process goes beyond the traditional bio-physical data collection. There is a need, in many instances, to also discuss a broader range of issues which include social and economic impacts. If the process is to have the confidence of all participants, then all supporting documents must be available for review and detailed scrutiny by the public. There shall be no "black boxes," where only inputs and outputs are known. All information shall be accessible unless there is good reason to the contrary.

On the other hand, some stakeholders requests for information are unwarranted and have no practical value in analyzing the activity under review. In other cases there is a legitimate need to have the information in order to complete the detailed analysis of the proposal.

If a proponent believes that certain information is confidential, it must be forwarded to the EAC at the earliest possible opportunity in the process. In discussions between the proponent and the EAC, the proponent will indicate why this information should be deemed confidential; the ultimate decision will rest with the Commission.

If a full assessment is necessary, the proponent shall completely disclose all information related to the environmental impacts of their proposed activity to the ARC. The ARC's ability to assess the impact will require knowledge of the technical processes of the activity, including inputs, effluent discharges and emissions.

SEARC recognizes that the problems relating to confidentiality are not insurmountable. Open dialogue and frequent discussions can find innovative solutions

to current questions. However, this process must work for the benefit of all participants. The decades ahead may present much more complex technology which proponents may request to be kept confidential.

RECOMMENDATIONS

- 7.13 All information pertaining to a proponent's request for confidentiality must be forwarded to the EAC at the earliest possible opportunity in the EA process. The EAC will determine if it is confidential and should be withheld from the public.
- 7.14 In the event a full EIA is necessary, proponents shall completely disclose all information related to the environmental impacts of their proposed activity to the ARC.

7.4 RETROACTIVITY

The issue of applying the new process to existing activities represented something of a dilemma to SEARC. It is fair to presume that in the proposed system, new activities may be more rigorously scrutinized than certain existing but less environmentally sound activities. However, the proposed system will provide several avenues to catch the most blatant offenders while not unfairly penalizing environmentally sound activities.

The new environmental assessment legislation will apply to all expansions, alterations, decommissionings and abandonments of existing activities. In the case of expansions and alterations, the existing activity will not be directly within the assessment. However, it would be virtually impossible to consider impacts, such as the cumulative load on the environment, without considering the effects of the ongoing (unaltered, pre-expansion) activity. Similarly, by requiring decommissioning and abandonment proposals to be assessed, residual negative impacts of "dinosaurs" should be minimized.

In order to ensure the success of these options, the EAC must actively promote and, if necessary, pursue legal avenues to enforce EA legislation. It is hoped that coercion will not be necessary; however, it is important that the legislation incorporate the necessary enforcement tools.

The most effective tool to ensure that on-going activities conform with acceptable environmental standards is not EA but the regulatory process. By reviewing, up-dating and stringently enforcing regulations, those activities which are harming the environment will have the option of either keeping pace with environmentally acceptable standards or making way for more acceptable activities. The majority of industries and activities are willing to comply with stricter standards. However, they ask that the expectations be clear, that all activities within the scope of the regulations be expected to comply, and that they be given enough lead time to adapt to higher standards.

In this regard, we encourage Saskatchewan to undertake a new initiative to systematically review existing regulations. New, more stringent, environmental regulations, monitoring programmes and enforcement efforts are needed. It is time for the Province to assume the lead in the field of environmental protection.

RECOMMENDATIONS

- 7.15 The new EA Act will apply to all expansions, alterations, decommissionings and abandonments of existing projects.
- 7.16 The EAC must actively promote and, if necessary, pursue legal avenues to enforce the requirements of EA legislation.
- 7.17 Saskatchewan should systematically review existing regulations, and undertake new, more stringent environmental regulations, monitoring programmes and enforcement efforts.

7.5 COMPLIANCE AND ENFORCEMENT

The new EA legislation must contain enforcement mechanisms that are effective, fast and powerful. The Minister of SEPS must be empowered to issue stop work orders or revoke EA licences or permits when violations of the legislation or the terms and conditions attached to the licence are committed. The EAC shall be empowered to obtain court injunctions for the same purpose. The right to private prosecution shall also be specifically legislated.

The legislation must provide for substantial fines where the legislation has been deliberated violated and adequate fines for unintentional violations. When a violation has occurred, the Minister shall issue a stop order and demand the proponent carry out remedial mitigation. If the order is not carried out within a specified time, the Minister shall order the work to be done at the expense of the proponent. Corporate directors and officers must be made personally liable for violations of the legislation.

The legislation should also provide a mechanism to compensate stakeholders who have suffered damage as a result of the legislation being contravened.

Finally, it is recognized that some proponents are setting the pace for others in their field by continually performing better than regulations require. It is recommended that these proponents be given incentives to encourage them and others to constantly aim at minimizing environmental impacts.

RECOMMENDATIONS

- 7.18 New EA legislation must empower the Minister of SEPS to issue stop work orders or revoke EA licences or permits when violations occur. The legislation must empower the EAC to obtain court injunctions when violations occur, as well as permitting the statutory right to private prosecution.
- 7.19 Substantial fines must be legislated for deliberate violations. Adequate fines should be legislated for unintentional violations.
- 7.20 When violations occur, the Minister of SEPS shall issue a stop order and require the proponent to carry out remedial mitigation. If the order is not carried out within the specified time, the Minister shall order the work to be done at the expense of the proponent.
- 7.21 The legislation shall make Corporate directors and officers personally liable for violations against the EA Act.

"Fines for non-compliance currently stand at \$5,000 for the first offence, and \$1,000 per day for every day of non-compliance. This is coffee money for some Corporations. If the review process is to have any sort of legitimacy, it must have teeth, and those teeth must be long, and they must be sharp. Fines should be substantially increased for Corporations for non-compliance."

—Ian Montieth
Regina
Environmental Group

- 7.22 Stakeholders who have suffered damage because the legislation has been contravened should be compensated.
- 7.23 Incentives should be made available to proponents that continually perform better than EA regulations require.

7.6 INTERJURISDICTIONAL ISSUES

Repeatedly in the public hearing process, concern was expressed by all stakeholders that the current situation of discord and duplication between the federal Environmental Assessment Review Policy (EARP) and the provincial EIA process cannot continue. This concern was particularly acute in those locations which bordered other provinces (Creighton and Lloydminster), and those which have been "caught" between federal and provincial governments (Estevan).

SEARC understands and is extremely sympathetic to these concerns; however, we are also fully cognizant of our own constitutional limitations. Our recommendations in this regard are, therefore, quite general in nature, and any specific proposals should be construed as suggestions only.

Words like co-operation, harmonization, and complementary processes were repeated at every meeting. In our opinion any and all of these are desirable options.

Specifically, among the suggestions put forward, the province might consider creating a joint panel in those circumstances where there are legitimate federal and provincial concerns. The panel would be established on an ad hoc basis, and be required to address all environmental impacts within the federal and provincial constitutional jurisdictions.

A second alternative is to enter into a co-operative agreement between levels of government which establishes separate EIA procedures for interjurisdictional proposals. When federal concerns or constitutional authority is limited, co-operative agreements could be established on an ad hoc basis. Primary EIA responsibility would be granted to the province, provided federal concerns were scoped and adequately addressed. Considering the present federal/provincial climate, this is doubtful. However, any co-operative model should apply standards at least as stringent as the Saskatchewan process.

It is also important to protect the integrity of the Saskatchewan EA process in inter-provincial assessments. By the same token, it is important that the prairie provinces recognize the extra-territorial nature of many environmental impacts, and offer neighbouring provinces an opportunity to be heard. Reciprocal rights to appear and participate in provincial EIA processes should be sought.

The viability of these suggestions is problematic. A revised federal process was introduced in June, 1990 (Bill C-78). The future of this legislation, in its existing form, is uncertain. Consequently, to hinge any concrete recommendations upon Bill C-78 is unwise. Similarly, the constitutional ramifications of any and all suggestions to solve interjurisdictional problems requires extensive legal research and a full consideration of all implications.

This uncertainty, coupled with time constraints, did not permit SEARC to definitively address these questions. It is critical, however, that efforts continue to achieve some resolution to the existing conflicts. In the meantime, the present inability to solve this interjurisdictional conflict should definitely not be a cause for delay in the reform of the provincial process.

"The province must work out a mechanism that allows their interest to, at least, carry equal weight on joint panels, rather than having to be subordinate to the Federal Government."

—Wayne Fraser
Hudson Bay Mining
& Smelting Co.
Flin Flon, MB

RECOMMENDATIONS

- 7.24 Efforts should be continued to achieve some resolution to the existing interjurisdictional conflicts.
- 7.25 The integrity of the Saskatchewan EA process should be protected in inter-provincial environmental assessments. However, reciprocal rights to appear and participate in neighbouring provincial EA processes should be sought.

8.0 Other Supporting Initiatives

- 8.1 Introduction
- 8.2 Education
- 8.3 Provincial Environmental Data System
- 8.4 Regional Planning
- 8.5 The Window of Opportunity

8.1 INTRODUCTION

Environmental assessment cannot work in a vacuum. In fact, no process, including that proposed in this report, can be expected to successfully serve its purpose unless an appropriate social, technical and administrative setting is also developed. For this reason, SEARC is compelled to describe several crucial prerequisites for the EA process to work effectively. Though essential, it will take several years to realize the benefits of these measures. It is, therefore, important not to delay their introduction. Unfortunately, due to the combined constraints of time and our specific mandate, we can only refer to these other supporting initiatives in general terms. This caveat should not, however, be considered a reflection of the importance of these measures.

8.2 EDUCATION

Education is not just one more service competing for funds with other equally worthy services. It is an essential investment in the two most valuable economic resources we have for the future—our environment and our people.

To date, environmental education has been sporadic. No comprehensive attempt has been made to introduce environmental education into the academic programmes of this province. Clearly, as the environment becomes an even greater priority, our society must possess the understanding necessary to evaluate choices and opportunities to ensure a sustainable environment.

The process of environmental education must begin with the school curriculum, from kindergarten to grade 12, and in post-secondary institutions through technical and professional training. This should not be limited to studying the environment as a subject, but must include using an environmental perspective as an overall teaching methodology.

However, education cannot end at the classroom door. It is necessary for other actors within society to initiate public education programmes. Media, industry, Government and interest groups must begin and/or continue environmental outreach programmes within the community. Each of these groups can contribute to making environmental protection a province-wide priority.

"The uranium industry is certainly not going to stop tomorrow, but . . . we don't know how long our commercial fishing or the trapping industry is going to last. If we can be educated, if we can be trained, then we can have something that we can fall back on."

—John Dantouze
Prince Albert
Tribal Council



Acknowledging that environmental education must address the full spectrum of concerns, it is also important to recognize that the public must be educated specifically about environmental assessment, as the new process comes on line.

The purpose of such an EA education programme is two-fold. First, educators must ensure that the people of Saskatchewan are made aware of the workings of the new process. Of equal importance is that the public is aware of their rights and opportunities to become involved in the EA process. Meeting these responsibilities will fulfill the education objectives and will ensure the success of the EA process itself. An environmentally informed and pro-active society is a positive step toward achieving environmental sustainability. Only when the public is informed will society be able to benefit from environmental assessment.

Once again, formal education curriculum can assist in this education process. However, the primary responsibility for EA education will rest with those most intimately involved in the process. Proponents, through their public consultation programmes, will be responsible for gathering information from the public, and informing the public about EA as it relates to their specific proposal.

Public interest groups have, to date, played a highly reactive role within the EA process, partly due to the adversarial nature of the existing process. With the expanded role of public consultation anticipated in the new process, public interest groups now have the opportunity to be pro-active: educating the public, helping to define issues, and proposing constructive solutions to environmental impacts.

The lion's share of the responsibility for EA education should rest with the Strategic Planning Branch of SEPS and with the EAC. The Strategic Planning Branch will be responsible for intra-governmental education. This role will complement the existing responsibilities of this Branch in helping departments prepare integrated policy documents (see Section 5.2).

The EAC's educative role will be even more wide ranging. They will co-ordinate public education programmes for all sectors of the community. The delivery of relevant information will be helpful in understanding and resolving outstanding issues relating to both policy and site-specific EA.

Particular emphasis must be placed on providing opportunities for education in the North, where access to resources is often limited. Special efforts should be made to tailor these initiatives to the cultural and geographical realities in this part of the province. Specifically, language diversity must be recognized and accommodated. All members of the public must have a meaningful opportunity to participate to ensure the success of environmental assessment.

RECOMMENDATIONS

- 8.1 A comprehensive programme in environmental education must be incorporated into formal curricula, as well as undertaking informal environmental education throughout Saskatchewan.
- 8.2 Media, industry, Government and interest groups must begin and/or continue environmental outreach programmes within the community.
- 8.3 The EAC shall co-ordinate EA public education programmes for all sectors. The Strategic Planning Branch of SEPS shall be responsible for intra-governmental EA education. Proponents shall be responsible for educating the public regarding their specific proposal as part of their public consultation plan.

"I would like to see young people becoming more involved in the EA process . . . because they are the leaders of the future. They are the generation to come, and they are the ones who are going to have to speak up. I would like to see work done in public schools . . . we need some help, but environmental studies could be easily integrated into the new curriculum."

—Valerie Bobinski
Principal at
Stony Rapids School

- 8.4 Environmental assessment education must ensure that the people of Saskatchewan are made aware of the mechanics of the EA process and their rights and opportunities for involvement.
- 8.5 Special consideration should be given to providing opportunities for education in the North, bearing in mind the cultural and geographic diversity in the region.

8.3 PROVINCIAL ENVIRONMENTAL DATA SYSTEM

Making any final EIA decisions is seriously impeded by the lack of information about the existing environment. It is necessary to have more complete, reliable and accessible knowledge of the bio-physical environment and the impacts it is already expected to withstand. Without this kind of baseline data, it is impossible to accurately predict, evaluate or mitigate the environmental impact of a proposed activity. To this end, a comprehensive provincial environmental data base is needed.

There are two main reasons why a comprehensive data base does not already exist. First, there has, to date, been no effort made to develop it. Knowledge of the existing environment remains compartmentalized and incomplete. As well, there is little or no integration of data from one EIA study to another, and data is often collected by different, non-comparable methodologies. A significant opportunity to assemble a more complete "picture" of the environment, and to facilitate future EIA studies, is thus lost.

Secondly, the technological tools for creating and managing such a data base have only recently been developed in the form of computer-based Geographic Information System (GIS) software programmes.

The work of assembling and updating environmental information will require interdepartmental co-operation. It should, however, fall to one agency to oversee and co-ordinate; the present Strategic Planning Branch in SEPS is best suited to this role. It would provide a logical addition to their mandate combined with the responsibility for preparing annual State-of-the-Environment reports. (See Section 6.10).

It is essential that GIS technology be one of the tools adopted and that environmental information be integrated into a comprehensive, accessible data base. This should include co-ordinating and collating data from resource inventories, EIA studies, environmental monitoring programmes and research studies to the maximum extent possible. The objective should be to develop improved knowledge of ecological carrying capacities and to evaluate and mitigate the significance of individual and cumulative impacts of proposed new activities.

We acknowledge the ambitious nature of this task, however, maintain that such an inventory is long overdue and absolutely necessary. It will not only serve site-specific EA objectives, but will enable environmentally-sound policy decision-making as well. Over time, the consolidation of this data will enable policy makers to predict and evaluate regional environmental thresholds.

RECOMMENDATIONS

- 8.6 A provincial environmental data system must be established to house existing baseline data which will be supplemented by ongoing EA research and data gathering.

"Here in the North we need a baseline study for the whole area and it has to be a continuous process. There is a wealth of information here, especially from the trappers and the Elders that have lived in this area for a long time."

—Dr. Allan Barnard
Uranium City

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- 8.7 Geographic Information System (GIS) technology should be used to integrate environmental information into a comprehensive, accessible data base.
 - 8.8 Methodologies in collecting and evaluating data must be standardized to allow EIA results to be integrated into one data base.
 - 8.9 The Strategic Planning Branch of SEPS should be responsible for initiating and co-ordinating a provincial environmental data system.

8.4 REGIONAL PLANNING

Regional planning has been put forward by many researchers as the first step in attaining environmental protection. The concept involves determining the types of development which are appropriate and desirable for a given region.

This can be achieved through an interactive approach in which the public and Government determine both desirable and viable resource use options in a particular region. A consultative process, similar to the provincial Round Table though scaled to the regional level, would be best suited to achieve this objective. This is a non-confrontational approach early in the planning process, where ideas are judged on their merits as ideas, not as already approved developments.

Regional planning may sometimes require compromises and will always depend on co-operation. Given resources may not be available for two types of potentially-conflicting uses. For instance, forests in a region may be used for traditional forestry activities such as logging and pulp and paper mills, or for tourism, hunting, fishing and other recreational activities. Sometimes these activities may be regarded as mutually exclusive, while at other times the conclusion may be that many activities are desirable,



sustainable and even complementary. However, it should be the prerogative of the public to be involved in identifying and listing the priorities that fit within the regional carrying capacity in a sustainable manner.

We strongly urge regional planning efforts be initiated to identify opportunities, constraints and public concerns about sustainable economic activities. Such efforts will benefit both proponents and the public. Proponents may gain insights into those types of activities which are suitable in a given region, and an early indication of the level of public acceptance in relation to specific activities. The public will gain a better understanding of the potential and limitations of the region.

RECOMMENDATIONS

- 8.10 Regional planning should be recognized as a prerequisite in attaining environmental protection.
- 8.11 Regional planning efforts should be initiated to identify opportunities for, constraints on, and public sentiment about sustainable economic activities.
- 8.12 The public should be actively involved in identifying and listing the priorities that fit within the environmental carrying capacity in a sustainable manner in their region.

8.5 THE WINDOW OF OPPORTUNITY

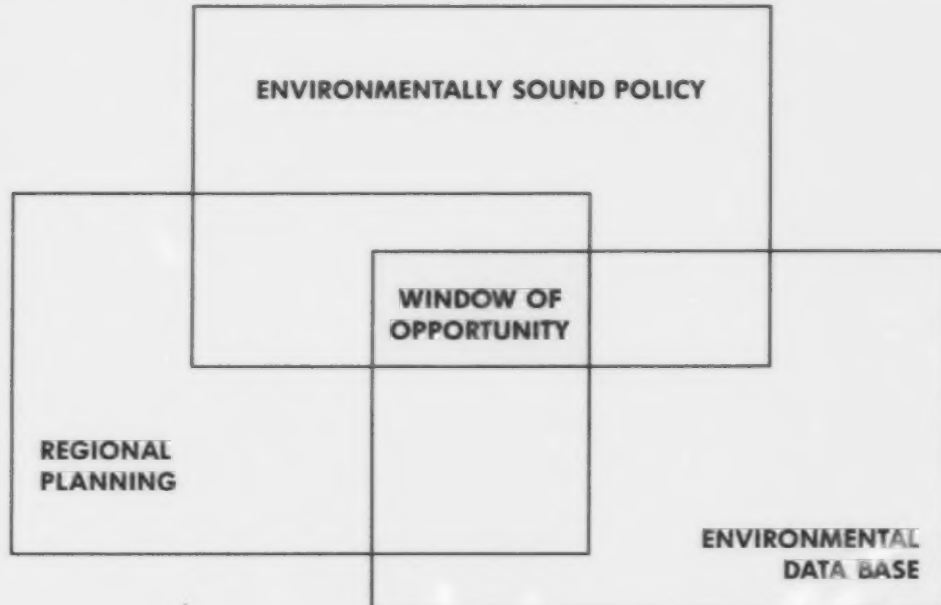
Environmental assessment should be an efficient, fair and effective tool for making open and informed decisions that support the development of a sustainable future. However, EA can only fulfill this mandate if all of the pieces fit together. These "pieces" include the supporting initiatives outlined throughout Section 8, together with the mechanisms for both policy and site-specific assessments elaborated in Sections 3-7.

Ideally, when there is an overlap between environmentally sound government policies, knowledge of ecological carrying capacities and the results of regional planning exercises, a "window of opportunity" will be created (Figure 3). A proposal entering the site-specific assessment process through this window should encounter fewer obstacles because all of the important prerequisites are in place: policy assessment, baseline data and regional planning. This is not to suggest that activity approval is certain. Rather, it means that the process of reaching an integrated decision will not be delayed.

Government policies set the broad context for all activities. Once policies have been assessed and found to be environmentally sound, they will set the overall direction and tone for economic activity. Regional planning provides a guide for proponents to the range of opportunities, and an indication of public attitudes toward such options. Finally, determining the regional carrying capacities establishes the ecological constraints on economic activities.

Figure 3

A MODEL OF THE IDEAL SETTING FOR EA OF SITE-SPECIFIC ACTIVITY PROPOSALS.



9.0 Implementation

- 9.1 Period 1—White Paper to Passage of New EA Legislation
- 9.2 Period 2—Legislative Passage to Proclamation
- 9.3 Period 3—Proclamation to Proclamation + 12 months
- 9.4 Period 4—Proclamation + 12 months to Proclamation + 24 months

When SEARC was appointed to review the environmental assessment process in Saskatchewan, Government anticipated that the review and implementation of a reform plan would be completed on one year. SEARC was given six months to consult with the public and prepare their report of recommendations to the Government and the public.

The suggested time-frame outlined the next six-to-nine months as a period for the public and Government to review and respond to SEARC's report. Within that time-frame as well, Government would issue a White Paper outlining their proposals for reform.

During the last three months of the year, the White Paper would be publicly reviewed and a plan for revising the EA process implemented.

While implementation strategies will remain the responsibility of government, SEARC considered time-lines which might be appropriate for the introduction and application of any new environmental legislation. After considering as many factors as possible, SEARC proposes the following four stages of implementation. (See Figure 4.)

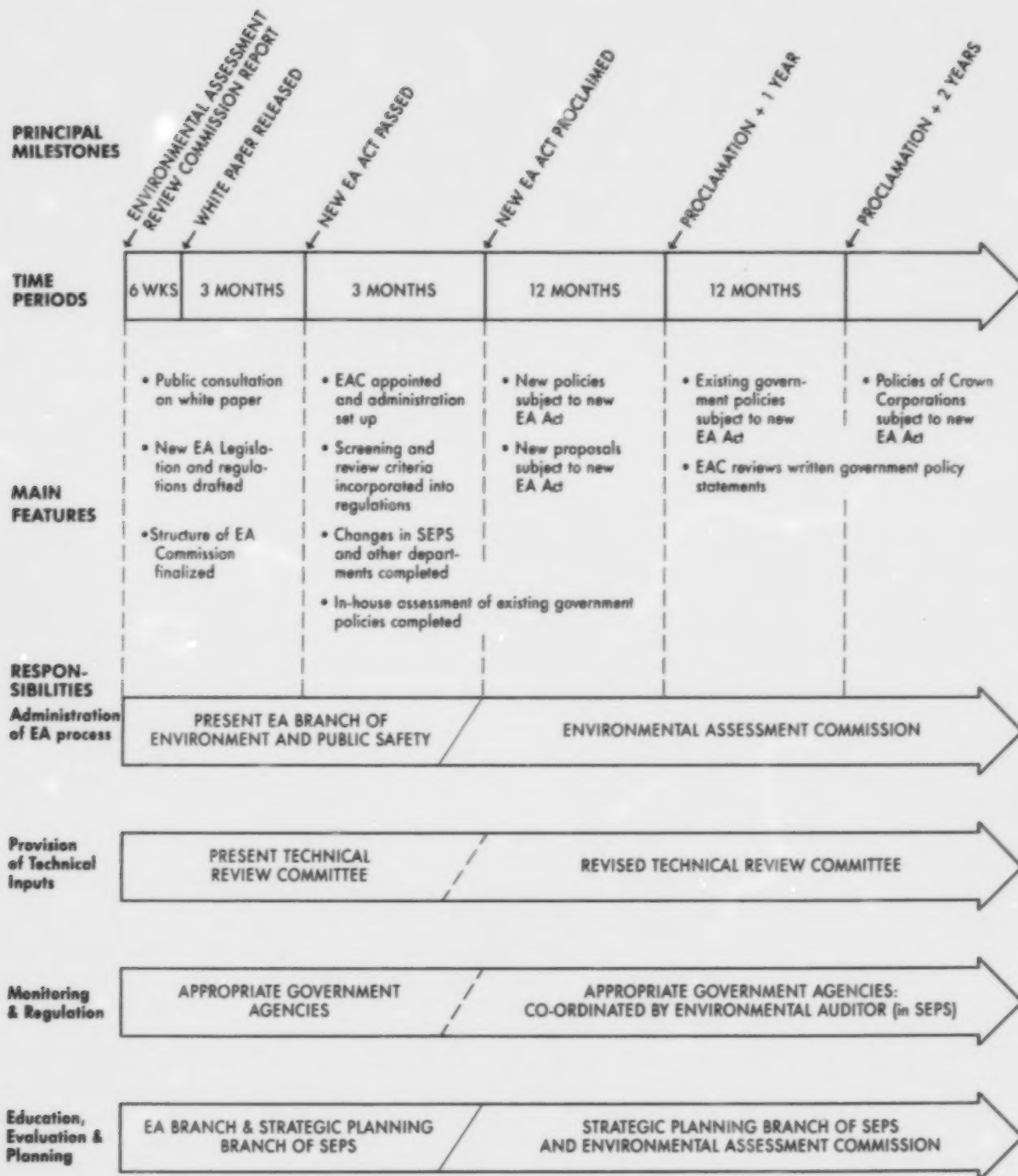
9.1 PERIOD 1—WHITE PAPER TO PASSAGE OF NEW EA LEGISLATION

Of primary importance during the first stage of introducing new environmental legislation and policy is the necessity for a wide-reaching education programme. It was evident through our contact with the public that many individuals are interested in environmental assessment and are anxious to learn of any changes to the process and their rights in relation to it. Representatives from industry are also anxious to learn what the new Act will mean to their particular interest. In this period, it will be the responsibility of the Government to educate all stakeholders. In addition, a concerted education programme will be necessary within Government.

We anticipate that this education programme will manifest itself in a variety of ways: brochures, information packages, public meetings throughout the province and sector-specific seminars. Much of the responsibility for this education programme shall rest with the Strategic Planning Branch, coupled with the resources of the Environmental Assessment Branch.

Charging these two branches with primary responsibility for the task is desirable for two reasons. Most obviously, they have the necessary expertise to master the new approach quickly, to develop the necessary programmes and, through the existing process, they have already established contact with many stakeholders. Secondly, the Strategic

Figure 4
RECOMMENDED IMPLEMENTATION TIME-LINES



Planning Branch will have long-term involvement with the new process and can thus provide continuity between the old and new systems. Education within Government shall continue to be SEPS's responsibility, although the primary responsibility for education, in general, will pass to the EAC when it is established.

It is important to note that, during this period, other initiatives relating to the environment may well be introduced: specifically, the expected announcement by the Round Table of their draft Conservation Strategy. Rather than being seen as an alternative to EA, such initiatives will help provide a frame of reference for evaluating environmentally sound policy. If the Conservation Strategy is as comprehensive as it must be, it should serve as the basis for guidelines in policy review. It is clear from certain Government initiatives that a commitment to the environment is emerging. This re-orientation must be encouraged so that once EA legislation is passed, "gearing up" will be merely a matter of logistics rather than a complete philosophical metamorphosis.

SUMMARY FOR PERIOD 1:

- A wide-reaching education programme must be conducted. Government must educate all stakeholders, as well as implement a concerted education programme within Government in order to get all departments to consider the environmental implications of their actions.
- The Strategic Planning Branch, in conjunction with the Environmental Assessment Branch in SEPS shall be responsible for the education programme, in the short term. (Ongoing education within Government shall rest with SEPS).

9.2 PERIOD 2—LEGISLATIVE PASSAGE TO PROCLAMATION

Once legislation has been passed, the establishment of the new EA process begins in earnest. During this three month period, the EA Branch shall continue to administer projects already in the system, while the new infrastructure is being set in place. SEARC anticipates that during this period the Environmental Assessment Commission will be appointed, pursuant to an Order-in-Council, and support staff hired.

During this transition period the EAC will serve a variety of functions. Firstly, they must establish a relationship with all stakeholders including the Government. Secondly, they must draft a number of regulations as required by the legislation, prepare the initial screening questionnaire and guidelines for policy review, and establish their own internal operations.

Drafting regulations will be an ongoing undertaking. At a minimum, regulations dealing with the rights and obligations of stakeholders must be in place at the time of proclamation of the legislation. Specific regulations (e.g. those relating to a particular industry) may follow but these should be introduced without delay to provide the surety stakeholders deserve and to correct the errors of the past.

As noted, activities which enter the EA process during this three-month period will be subject to the "old system." We do not believe, however, that there will be a rush of projects attempting to circumvent the new anticipated EA requirements. It is to the advantage of proponents to access the new system and, in so doing, avoid the pitfalls of the old. The advantages of the new system must be made clear to proponents at this point.

SUMMARY FOR PERIOD 2:

- The EA Branch shall continue to administer projects already in the system while the new Environmental Assessment Commission infrastructure is being set in place.
- Regulations dealing with the rights and obligations of stakeholders shall be drafted during this time and activated when the legislation is proclaimed.
- Information and advantages of the new EA process shall be distributed to all proponents at this time.

9.3 PERIOD 3—PROCLAMATION TO PROCLAMATION PLUS 12 MONTHS

At proclamation, the EAC will be formally appointed and shall assume primary responsibility for environmental assessment under the proclaimed Act. At the same time, the Environmental Auditor will be appointed and a newly constituted Technical Review Committee (TRC) will assume its responsibilities. Regulators, including the Environmental Protection Branch, will continue to exercise their duties.

From this point forward, all new projects will be subject to the new process, as will new policy initiatives. Crown Corporations, like private proponents, will be required to submit initial screening questionnaires and, if necessary, meet the full requirements of site-specific EA. Their policies, however, will not be subject to EA for two years. (See Section 9.4). Once again, in tying individual projects of Crown Corporations to the system at the same time as private proponents, we establish the level playing field requested by all stakeholders.

Proclamation of the legislation will also mark the demise of the EA Branch as it presently exists. We expect that some members of the Branch may be hired by the EAC, however, these decisions are appropriately left to the EAC.

During this 12 month period, all Government departments will complete their internal assessment of existing policies begun at the passage of legislation. It is important to note that, at the end of this period, the environmental soundness of policies will have been determined by the individual departments, and their integrated policy statements will be ready for review by the EAC. Those departments which complete their study during the period are encouraged to submit their findings.

We anticipate that if individual departments have "done their homework," the review by the EAC should be completed without delay. If policies are judged to have potential negative environmental implications, it may be necessary for a more in-depth public review than might be the case for an environmentally sound policy (See Policy Assessment Section). It is important to note, however, that the EAC does not ultimately decide the political acceptability of any policy. It will provide, through its own expertise and the vehicle of public feedback, the information necessary for politicians to make their decisions.

At the end of this period, new policies, existing Government policies and all projects will be within the new system.

SUMMARY OF PERIOD 3:

- The EAC will become primarily responsible for environmental assessment and the EA Branch of SEPS will no longer exist.
- An Environmental Auditor shall be appointed, and the newly constituted TRC shall assume its responsibilities.
- All new activities of Government, Crown Corporations and private proponents will be subject to the new EA process, as will new policy initiatives.
- By the end of this stage, all Government departments will have completed their internal assessment of existing policies. Departments' integrated policy statements will be ready for review by the EAC.
- At the end of this period, new policies, existing Government policies and all activities will be expected to be within the new system.

9.4 PERIOD 4-PROCLAMATION PLUS 12 MONTHS TO PROCLAMATION PLUS 24 MONTHS

The final stage of implementation involves assessing the existing policies of Crown Corporations. It is necessary to give Crowns this extra period of time in order to have appropriate departmental policies in place, which will serve as the basis for their own policies. We do not believe that this will significantly prejudice Crown Corporations in relation to the private sector. Activities of Crowns, like private proponents, will already be within the new system and, although private proponents cannot be forced to assess their policies, they must operate in a manner consistent with Government policy and, thus indirectly, will have to consider the environmental acceptability of their actions. To formalize this requirement for publicly owned Crown Corporations merely reflects the desires of their ultimate shareholders, the people of Saskatchewan.

There is evidence that certain of the Crowns have already begun assessing their policies. Indeed, the present initiative of SaskPower (The Electrical Energy Options Review Panel) goes beyond that which is required by the Act: they are seeking public input as an intrinsic part of their policy-making. Such initiatives by Crown Corporations, and Government departments for that matter, should be encouraged.

SUMMARY FOR PERIOD 4:

- All existing policies of Crown Corporations shall be assessed, and shall be ready for review by the EAC at the end of this period.

10.0 Conclusion

In carrying out its mandate, SEARC made every attempt to determine the views of the public, and to recommend reforms to the environmental impact assessment process which reflected those views. At the same time, it was incumbent upon us to place these suggestions within the context of the present process: to learn from past mistakes without abandoning those aspects which have worked satisfactorily.

As important, was the issue of practicality—any suggestions for change had to be workable from the perspective of all Saskatchewan stakeholders. This is not to say that the fundamental integrity of the process was compromised; simply, that all proposed reforms had to be carefully considered in an attempt to ensure fairness to all.

One final point must be stressed. Although the Report has been divided into several distinct sections, these apparent “breaks” are included only for convenience. In order to achieve the basic objectives of EA, the process of policy and site-specific assessment and the supporting initiatives which we have recommended must be indivisible; each is integral to the whole. Simply adopting one or two of the concepts will totally defeat the value of our recommendations. Undoubtedly, details of our specific recommendations will require review. However, the major components of the recommendations are inseparable.

Reform of the EA process is itself a necessary step in securing a sustainable future. We have been assured that the commitment has already been made within Saskatchewan Environment and Public Safety with the establishment of this Commission. We look forward, along with the many citizens who participated in our review, to seeing evidence of that pledge in the near future.

Appendix I

RECOMMENDATIONS

FOUNDATIONS AND FUNDAMENTAL CONCEPTS

3.2 PUBLIC CONSULTATION

- The public must be brought into the environmental assessment process as early as possible and be part of the environmental assessment (EA) process throughout its duration.
- The public must be empowered with a right of access to information.
- The right of access to information shall be incorporated into EA legislation.
- The public must have mechanisms, defined by law, to voice their opinions, and reasonable time-frames to do so.
- Public hearings shall take place in the communities which will be most affected by the proposed activity.
- Translators and translations of public hearings shall be available for those people who speak the first languages. Comprehensive summaries of the environmental impact statement (EIS) should be available to those directly affected individuals who speak in the first languages.

3.3 FAIRNESS

- Environmental assessment must be an objective process—independent and impartial.
- The rules of EA must be consistently applied.
- The scope of an EIA shall be defined and criteria for decision-making shall be clear, publicly available, and incorporated into legislation.
- Government and Crown Corporations must be bound by EA legislation.

3.4 ACCOUNTABILITY

- The EA process must be legislated and regulations must be enacted pursuant to the Act as quickly as possible.
- Obligations within the legislation must be mandatory.
- Ultimate decision-making shall remain with elected officials.
- All recommendations and decisions shall be in writing and made public at the time the recommendation and/or decision is made.

3.5 COMPREHENSIVENESS

- Activities shall be assessed from cradle to grave and beyond.
- Short-term, cumulative and long-term impacts shall be assessed, as well as bio-physical, social, cultural (archaeological), economic and aesthetic impacts.
- Immediate, local, regional and global impacts must be assessed.

3.6 RIGOUR AND FLEXIBILITY

- The process must be rigorously applied and enforced.
- Information and methodologies must be consistent but flexible, and scaled appropriately to the nature of the proposal.

THE NEW ENVIRONMENTAL ASSESSMENT PROCESS

4.2 ESTABLISHMENT OF AN ENVIRONMENTAL ASSESSMENT COMMISSION

- The EA process shall be administered by an independent Environmental Assessment Commission (EAC), established and mandated under a new *Environmental Assessment Act* and Regulations.
- The new Environmental Assessment Commission shall replace the present Environmental Assessment Branch of Saskatchewan Environment and Public Safety (SEPS).
- The EAC shall consist of a full-time chairperson and four full-time Commissioners who will be appointed by the Lieutenant Governor in Council. They shall be appointed for a rotating, once renewable three-to-five year term.
- The new EAC shall be funded by annual expropriation from general government revenues.
- The mandate of the EAC shall be to administer an environmental assessment process which ensures environmentally sound integrated decision-making. An annual report shall be submitted to the Legislature.

THE STAGES OF ENVIRONMENTAL ASSESSMENT

4.3.1 CONCEPTUAL STAGE—POLICY ASSESSMENT

- Policy development shall remain the responsibility of government. However, policies shall be clearly articulated, indicating how environmental considerations have been incorporated.
- The EAC must ensure that an open review of policies takes place and involves public input through the appropriate forums.
- The EAC shall make recommendations to Cabinet after reviewing the environmental soundness of policies. The EAC shall make these recommendations public at this time.

4.3.2 THE SCREENING STAGE—SITE-SPECIFIC ASSESSMENT

- All proposed activities shall be affected by the EA process at this stage, unless exempted after being initially screened.
- The EAC shall determine if proposed activities are consistent with environmentally assessed policies and identify activities requiring a mandatory formal proposal to be submitted.
- The EAC shall provide for public and technical input to determine whether a proposed activity requires a full environmental impact assessment (EIA).
- The EAC may reject or approve proposed activities on the basis of either initial screening or formal proposal review, but the latter approvals will be conditional on the adequacy of a proponent's environmental protection plan (EPP).

4.3.3 THE ASSESSMENT STAGE

- Proponents shall bear the cost of, and provide the expertise in completing an environmental impact study document which meets the specific guidelines prepared by the Activity Review Committee (ARC).
- An ARC, established by the EAC, shall ensure the environmental impact statement is completed.

4.3.4 THE REVIEW STAGE

- The completed EIS document shall be the basis to analyze and evaluate the proposed activity. The ARC shall co-ordinate input from the Technical Review Committee (TRC).
- The ARC may obtain advice or critiques of the completed EIS document by independent experts.

4.3.5 THE DECISION STAGE

- The Commissioners who have been on the ARC shall report, in public and in writing to the Minister of SEPS, whether the proposed activity should be rejected or approved.
- In forwarding a decision to approve, the EAC shall identify all applicable licensing conditions.
- The Minister of SEPS may, within 28 days, give written reasons for overturning an approval or rejection decision of the EAC.

4.3.6 THE OPERATIONAL STAGE—MONITORING AND DECOMMISSIONING

- Monitoring information, whether from the proponent or obtained through inspection, shall be regularly submitted to regulatory agencies. Proponents shall also make understandable and comprehensive monitoring summaries available to the public.

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- The EAC shall be responsible for ensuring the adequacy of monitoring and decommissioning, and to evaluate the overall effectiveness of the EA process.
 - The EAC shall review any decommissioning plans, and shall only approve decommissioning go-ahead after technical review and public input has been obtained.

POLICY ASSESSMENT

5.1 INTRODUCTION

- The term "policy" shall be defined within the new EA Act and include policies, proposals, plans and/or programmes.
- The EAC shall systematically review policy statements to ensure that all environmental consequences have been recognized.
- The EAC shall make public its recommendations regarding the environmental soundness of all policies.
- Policy decisions shall continue to be political decisions; therefore, ultimate decision-making power shall be left with politicians.
- Public input must be an intrinsic part of the policy review process.

POLICY ASSESSMENT PROCESS

5.2.1 GOVERNMENT

- Each Government department shall be required to prepare an integrated policy statement of the impacts of all policies, programmes, plans and initiatives currently in place within their department.
- The Technical Review Committee member in each department shall be responsible for ensuring that the department's integrated policy statement is completed within one year after proclamation of a new EA Act.
- After the in-house evaluation has been completed, each department will submit the integrated policy statement detailing its policies to the EAC.

5.2.2 CROWN CORPORATIONS

- Crown Corporations shall be phased into the policy assessment process, with a two-year lead time after proclamation before written integrated policy statements are required by the EAC.

5.2.3 PRIVATE INDUSTRY

- Industry should encourage Government to consider the environmental implications of any policy which might affect them.
- Industry should initiate assessment of their own policies for environmental soundness.

5.3 INTERIM MEASURES

- Newly proposed activities which are not based on an environmentally assessed policy, but are environmentally sound, may proceed with an approved environmental protection plan.
- Proposals presently in the EA process, and new proposals which may have significant impacts, may delay their proposal until an environmentally assessed policy is in place, or allow the EAC to conduct a policy assessment while the proponent does a site-specific assessment at the same time. Proponents who have already commenced their EIS may choose a third alternative: to continue in the old system.

THE MECHANICS OF POLICY ASSESSMENT

5.4.1 PROCEDURES

- The Strategic Planning Branch in SEPS will gather and provide background information to enable all departments to work from a common base in preparing their integrated policy statements.
- Once an integrated policy statement has been screened for environmental consequences within the department, it shall be forwarded to the EAC for review.
- No policy may by-pass the system entirely. All policies must be submitted to the EAC before being approved.
- The EAC shall have the power to require a department to complete and modify its submission if the EAC believes it is incomplete.

5.4.2 EAC ROLE AT THIS STAGE

- Having evaluated the integrated policy statement, the EAC may recommend Cabinet approve any policies which have no environmental implications or are environmentally sound. The EAC shall make these policies, along with its commentary, public.
- The EAC shall open the review of any policy with broad environmental consequences to public scrutiny for 30–60 days. The integrated policy statement and all input from the EAC policy review shall also be released to the public.

5.4.3 THE POLICY REVIEW COMMITTEE

- The EAC shall have the power to establish a Policy Review Committee (PRC) to gather additional public input and report its findings.
- The PRC shall have among its membership one Commissioner, a member of the TRC, a representative of the initiating department and public stakeholders.
- The EAC shall determine the nature of the public forum, be that public meetings, information sessions, hearings or Boards of Inquiry.

5.4.4 POLITICAL DECISION-MAKING AND ACCOUNTABILITY

- The PRC shall make their recommendations regarding the environmental soundness of the policy, public at the same time they present them to the Minister of the initiating department and Cabinet.
- The public must be allowed to petition the EAC in order to initiate the process for individual policies to be assessed.

SITE-SPECIFIC ASSESSMENT

6.1.1 INITIAL SCREENING QUESTIONNAIRE

- All activities will be initially screened. A generic questionnaire shall be submitted to the EAC by all proponents at the idea stage of a proposal.
- A new definition of "activity" shall be established and incorporated into the new EA Act. An "activity" shall mean any industry, activity, undertaking, project, structure, work, exploratory venture, test well or feasibility study, and includes a modification, extension, abandonment, demolition and/or rehabilitation thereof.
- The questionnaire shall be developed, as soon as possible, by the Environmental Assessment Commission in consultation with the Technical Review Committee and the Environmental Assessment Branch of SEPS.
- It will be the responsibility of each agency or department to alert proponents to the necessity of submitting a screening questionnaire as part of their initial activities.
- At the screening stage, the EAC may decide to exempt activities from going through the formal proposal stage; require proponents to submit a formal proposal; re-route activity proposals if they are inconsistent with environmentally sound policy; or reject a proposal that is environmentally unacceptable.
- The ultimate initial screening decision shall rest with the EAC.

THE FORMAL PROPOSAL

6.2.1 SUBMISSION

- Proponents shall be responsible for preparing and submitting the necessary documentation required in a formal proposal.
- The current guidelines used for preparing an EIA (pp.11-12, *Supporting Documents for "The Future of Environmental Assessment in Saskatchewan"*) shall be incorporated into regulation.
- The EAC shall decide if a full EIA is necessary.
- The EAC shall make all formal proposals public and shall seek input from all stakeholders before making any decision.

6.2.2 SIGNIFICANT IMPACTS

- The decision as to whether a project should undergo EIA shall be based on the significance of the possible impacts.
- Present criteria in the Act under section 2(d) must be more carefully defined and incorporated into the new legislation.
- A new definition of "significant impact" shall be established and incorporated into the new EA Act.

6.2.3 MANDATORY LISTS

- Supplementary lists of projects which automatically require an EIA may be incorporated into the new EA Act.
- Lists of those activities which would be automatically exempted from the initial screening process should not be compiled or used as the basis for decision-making.

6.3 PROPOSAL OUTCOMES

- The EAC shall have ultimate decision-making power about the fate of formal proposals which have been screened.
- The EAC may reject an activity proposal; approve it, subject to an environmental protection plan and other applicable regulations beyond the EA Act; or require the proponent to undertake a full EIA before a decision can be made.
- The use of environmental protection plans (EPPs) shall be incorporated into regulation.
- All decisions of the EAC, regarding proposals, shall be made public. The method and extent of public notification shall be incorporated into regulation.

6.3.1 CLASS ASSESSMENTS

- Class assessments shall be applied to activities in which individual operations and associated impacts are relatively minor and localized but repeat frequently.
- Individual activities must be screened by the EAC, even if the activity fits within the boundaries of an approved class assessment.

6.4 ACTIVITY REVIEW COMMITTEE

- If a full EIA is necessary, an Activity Review Committee must be appointed by the EAC to guide the proposal through the assessment.
- The ARC's responsibilities will be to draft and administer guidelines, co-ordinate the review of the EIS and communicate with all affected stakeholders.
- The ARC will act to ensure all guideline specifications are met.

6.5 TECHNICAL REVIEW COMMITTEE

- The TRC shall be restructured to assume both pro-active and reactive roles.
- Individuals in each relevant department and/or branch shall be charged, solely, with the responsibility of environmental assessment.
- TRC members shall co-ordinate the review of proposals and EISs within their department; report additional regulations required by each proposal to the ARC; and work pro-actively to establish environmentally sound policies within their department.

6.6 THE ROLE OF THE PROPONENT

- The proponent will be responsible for preparing the EIS.
- Proponents must seek out and incorporate public views and concerns in their EIS, by undertaking an ARC approved public consultation plan which shall begin at the proposal stage and continue until the EIS is complete.

6.7 THE ENVIRONMENTAL IMPACT STATEMENT

- The EIS must address all environments affected by the activity, from concept through construction, operation and abandonment.

6.7.1 MITIGATION

- Proponents must identify mitigation strategies for addressing the effects of their activities, within the scope of their EIA.
- Proponents shall make every effort to eliminate negative impacts of their activities by choosing an alternative means of carrying out the activity.
- When proponents cannot eliminate negative bio-physical impacts, they shall reduce the severity of the impacts by doing all they can to restore damaged features and resources, or where necessary, substitute for irreplaceable losses.
- Monetary compensation is not an acceptable alternative to mitigation, though it may be necessary to alleviate negative socio-economic impacts.

6.7.2 DECOMMISSIONING AND ABANDONMENT

- Proponents must plan, in their EIS or EPP, for complete environmental reclamation when the activity is abandoned.
- Long-term activities may require a separate review by the EAC for a specific decommissioning proposal.

6.8 ENVIRONMENTAL IMPACT STATEMENT REVIEW

- The review function of the ARC may be on-going in order to ensure a quicker turn-around time in the technical review of the full EIS.
- The ARC shall be empowered to seek independent expertise to evaluate EIS input.

-
- The ARC shall release the completed EIS and all technical review documents to the public at the same time as it is submitted to the ARC.
 - After reviewing the completed EIS, the ARC shall release its review of the bio-physical and socio-economic impacts of the proposed activity to the public and the proponent.

6.8.1 PUBLIC REVIEW

- A 30-day period for the public to review the EIS shall be legislated in the new EA Act.
- The Commission shall decide the forum for public review, and gather information before making their decision.

6.9 THE EAC DECISION

- The three Commissioners of the ARC shall have the power to approve activity go-ahead subject to conditions, or reject an activity. They must find the activity acceptable from both bio-physical and socio-economic perspectives if they are to approve it. Conditions of approval may include requesting the proponent to post a performance bond.
- The three Commissioners shall submit their written decision regarding the acceptability of the activity to the Minister of the Environment, which shall be made public at that time.
- The Minister may overturn the Commission's decision, but must do so within 28 days, give written reasons and make them public.

6.10 MONITORING ONGOING ACTIVITIES

- The EAC shall ensure conditions attached to an activity's EA licence or EPP permit are enforced; ensure the EA process is effectively meeting its objectives; and review, allow technical and public input, and approve final plans for decommissioning activities.
- The present approach to monitoring shall be retained; proponents shall submit information to regulatory agencies as required, which shall be supplemented by periodic inspections by those agencies.

6.10.1 THE ROLE OF THE ENVIRONMENTAL AUDITOR

- An Environmental Auditor shall be appointed to the Environmental Protection Division of SEPS to co-ordinate, review and oversee monitoring.
- Proponents shall be required to make regular, public reports summarizing their performance in complying with environmental protection regulations and conditions of EA approval.
- The EAC shall be informed of, and empowered to take appropriate action on instances of EA non-compliance, which have been brought to the attention of the Environmental Auditor.

-
- Individuals who alert the Environmental Auditor of violations, shall be protected in the legislation.
 - The Strategic Planning Branch of SEPS shall be responsible for State-of-the-Environment reporting that incorporates status reports on monitoring and mitigation effectiveness and enables the EAC to evaluate the functioning of the EA process.

6.10.2 DECOMMISSIONING

- Decommissioning plans shall be required of all proponents seeking to terminate activities.
- The EAC shall, where applicable, approve decommissioning plans only after appropriate technical review and public input has been received.
- Completed decommissioning shall be inspected by regulatory agencies under the co-ordination of the Environmental Auditor.
- The EAC shall not, where applicable, end a proponent's obligations or release performance bonds unless adequate long-term reclamation is confirmed by the Environmental Auditor.

SPECIFIC ISSUES

7.1 STANDING

- The public must have standing at a number of points in the EA process. Public participation must not only be encouraged, but must be guaranteed by the EA Act.
- Individual stakeholders must have mechanisms available within legislation for appeals on questions of law.

7.2 STAKEHOLDER FUNDING

- Stakeholder funding shall be re-introduced and enshrined in the EA legislation.
- Any stakeholder funding programme must be actively publicized when the legislation is first introduced and at the time of individual EIAs.

7.2.2 THE MECHANICS OF STAKEHOLDER FUNDING

- Stakeholder funding shall be available at any point in the EA process where public input is involved after the proposal stage.
- Criteria must be established, and publicized, to determine the eligibility of funding demands.
- The EAC shall administer a stakeholder fund, and an EAC Commissioner who is independent of the ARC considering the activity proposal shall be responsible for evaluating stakeholder funding applications.

- Government shall provide stakeholder funding for policy assessment. The level of funding will be determined by the EAC in consultation with the department initiating the policy.
- In the case of joint ventures, both the proponent and Government shall share the cost of stakeholder funding. If the proponent is solely the Government, it should cover the full cost. Stakeholders should raise a token proportion of their costs, or provide non-monetary contributions in kind.
- Proponents shall fund stakeholders in site-specific assessments, based on a percentage of the capital cost or operating costs (whichever is greater), of any activity that requires an ARC to be established.
- Proponents shall be primarily responsible for carrying out approved public consultation plans until they submit their EIS.
- Reasonable and legitimate expenses (as deemed by the EAC) of the public consultation plan shall be credited to the proponent's percentage contribution to stakeholder funding. When the EIS is submitted, the EAC will continue to administer what remains of the proponent's contribution.

7.3 CONFIDENTIALITY

- All information pertaining to a proponent's request for confidentiality must be forwarded to the EAC at the earliest possible opportunity in the EA process. The EAC will determine if it is confidential and should be withheld from the public.
- In the event a full EIA is necessary, the proponent shall completely disclose all information related to the environmental impacts of their proposed activity to the ARC.

7.4 RETROACTIVITY

- The new EA Act will apply to all expansions, alterations, decommissionings and abandonments of existing projects.
- The EAC shall actively promote and, if necessary, pursue legal avenues to enforce the requirements of EA legislation.
- Saskatchewan should systematically review existing regulations, and undertake new, more stringent environmental regulations, monitoring programmes and enforcement efforts.

7.5 COMPLIANCE AND ENFORCEMENT

- New EA legislation must empower the Minister of SEPS to issue stop work orders or revoke EA licences or permits when violations occur. The legislation must empower the EAC to obtain court injunctions when violations occur, as well as permitting the statutory right to private prosecution.
- Substantial fines must be legislated for deliberate violations. Adequate fines should be legislated for unintentional violations.

- When violations occur, the Minister of SEPS shall issue a stop order and require the proponent to carry out remedial mitigation. If the order is not carried out within the specified time, the Minister shall order the work to be done at the expense of the proponent.
- The legislation shall make Corporate directors and officers personally liable for violations against the EA Act.
- Stakeholders who have suffered damage because the legislation has been contravened should be compensated.
- Incentives should be made available to proponents that continually perform better than EA regulations require.

7.6 INTERJURISDICTIONAL ISSUES

- Efforts should be continued to achieve some resolution to the existing inter-jurisdictional conflicts.
- The integrity of the Saskatchewan EA process should be protected in inter-provincial environmental assessments. However, reciprocal rights to appear and participate in neighbouring provincial EA processes should be sought.

OTHER SUPPORTING INITIATIVES

8.2 EDUCATION

- A comprehensive programme in environmental education must be incorporated into formal curricula, as well as undertaking informal environmental education throughout Saskatchewan.
- Media, industry, Government and interest groups must begin and/or continue environmental outreach programmes within the community.
- The EAC shall co-ordinate EA public education programmes for all sectors. The Strategic Planning Branch of SEPS shall be responsible for intra-governmental EA education. Proponents shall be responsible for educating the public regarding their specific proposal as part of their public consultation plan.
- Environmental assessment education must ensure that the people of Saskatchewan are made aware of the mechanics of the EA process and their rights and opportunities for involvement.
- Special consideration should be given to providing opportunities for education in the North, bearing in mind the cultural and geographic diversity in the region.

8.3 PROVINCIAL ENVIRONMENTAL DATA SYSTEM

- A provincial environmental data system must be established to house existing baseline data which will be supplemented by ongoing EA research and data gathering.
- Geographic Information System (GIS) technology should be used to integrate environmental information into a comprehensive, accessible data base.

-
- Methodologies in collecting and evaluating data must be standardized to allow EIA results to be integrated into one data base.
 - The Strategic Planning Branch of SEPS should be responsible for initiating and co-ordinating a provincial environmental data system.

8.4 REGIONAL PLANNING

- Regional planning should be recognized as a prerequisite in attaining environmental protection.
- Regional planning efforts should be initiated to identify opportunities for, constraints on, and public sentiment about sustainable economic activities.
- The public should be actively involved in identifying and listing the priorities that fit within the environmental carrying capacity in a sustainable manner in their region.

Appendix II

SUMMARY OF ENVIRONMENTAL IMPACT ASSESSMENT IN SASKATCHEWAN 1980-1990

Prepared by Leigh Speed

SEARC completed a quantitative analysis of the results of 11 years of administering the present process following passage of *The Environmental Assessment Act*, (1980). The purpose was to obtain an overview of the number, type and distribution of development proposals affected, as well as the proportion approved or rejected. Data, on 636 proposals for the period 1980-1990, was provided by Saskatchewan Environment and Public Safety. However, since the Act had no Regulations regarding formal screening or mandatory proposals, the picture is incomplete. The data does not include the overall total of proposals brought to the attention of the Environmental Assessment (EA) Branch; some were informally screened and approved if deemed minor. The number which proceeded without being brought to the EA Branch is also unknown.

Development proposals were classified by location based on the 12 regions delineated in Figure A1. (The communities indicated are also those in which SEARC held its public meetings). Eleven proposals spanned more than one region and were not given a location. In addition, proposals were further classified into 11 development types: agricultural projects; energy production and transmission (including generation stations, transmission lines, pipelines and others); fish and wildlife projects; forestry activities; manufacturing; mineral development (including uranium development, gas and oil and other minerals); parks, protected areas and recreation projects; transportation systems (including roads, bridges, causeways, railway lines and airstrips); urban and rural development; water development projects; and miscellaneous. Table A1 provides a summary of the classification results.

REGIONAL DISTRIBUTION Figures A2 and A3 portray the distribution of the number and proportion, respectively, of proposals received and full environmental impact assessments (EIAs) required. Proposals were received from all 12 regions, but 448 (70%) pertained to developments in the six most populated regions (Figure A2). Conversely, it was in the three sparsely populated northern regions of Stoney Rapids, La Ronge and Creighton that a comparatively larger proportion (39%) of proposals received were required to conduct full EIAs. One region, Stoney Rapids, accounted for nearly a quarter of all the EIAs required.

DEVELOPMENT TYPE Figures A4 and A5 portray number and proportion, respectively, of proposals received and EIAs required for each of the development type classes. The largest number of proposals were received in the areas of mineral development (175, 27%), with 16 of these being in uranium mining, 111 in oil and gas, and 48 in other minerals—mainly gold and potash. A total of 39 (49%) of all EIAs, which were required, fell into this type. Large mineral developments were more often required to have EIAs

than smaller ones, even though the cumulative impacts of the latter might be significant. For example, of 16 uranium-related proposals in the Stoney Rapids region, 11 (69%) required EIAs. On the other hand, of 56 oil and gas proposals in the Swift Current region, only 3 (5%) required EIAs.

Fish and wildlife projects made up the second most frequent type of proposals (155, 24%). These were exclusively comprised of wetland management projects for wildlife conservation. Although a large number of proposals were received, only 1 (0.6%) required an EIA.

The energy sector (72, 11%) transportation (61, 9.6%) and manufacturing (60, 9.4%) were the next most frequently proposed development types. Together, they accounted for 30% of all EIAs required.

Despite the importance and scale of agricultural and forestry activities in the province, only 14 (2%) proposals were in these two development types combined: EIAs were not required for any of them.

GENERAL OVERVIEW Figure A6 portrays the annual number of all proposals received and EIAs required from 1980-1990. Of the total of 636 proposals, full EIAs were required of only 80 (13%). However, of these 80, a total of 40 (50%) proposals were withdrawn or deferred by the proponent. This suggests some proponents may have considered the process too unpredictable, difficult or costly, while others may have determined, during their EIAs, that their proposals were not feasible. Only 35 EIAs were completed. All but two received approval to proceed, and in one of those two cases, approval was, in fact, given for an alternative (access road route) identified by the proponent.

A Board of Inquiry was established in just one instance, that being for the Rafferty and Alameda Dams project.

What can be concluded from this analysis is to some extent limited by the aforementioned incompleteness of the data. However, with only 13% of proposals examined requiring EIAs, and only two of 636 failing to get approval, it is clear the existing EA process has not been a major roadblock for those proposals it has affected.

It is also evident that some sectors, such as agriculture and forestry, have been virtually exempt. Others, particularly mineral developments, have been much more likely to undergo full impact assessments. As well, numerous smaller projects with potential for cumulative impacts have usually been approved without an EIA required.

Figure A1
ENVIRONMENTAL ASSESSMENT REGIONS USED BY SEARC FOR DATA REVIEW.



Table A1
REGIONAL AND DEVELOPMENT TYPE DATA 1980-1990
(1990 DATA JAN. TO OCT. ONLY)

REGION	STONEY RADIDS	LA RONGE	CREIGHTON	MEADOW LAKE	LLOYDMINSTER	PRINCE ALBERT	SASKATOON	REGINA	KINDERSLEY	SWIFT CURRENT	YORKTON	ESTEVAN	NO SPECIFIC LOCATION	TOTAL PROPOSALS REC'D	# OF EIAs REQUIRED
DEVELOPMENT TYPE															
AGRICULTURE						3			2				5	0	
ENERGY AND TRANSMISSION	6	2	1	2	11	6	6	6	4	14		5	9	72	16
FISH & WILDLIFE				7	14	24	28	14	2	14	42	10		155	1
FORESTRY		3		1		5								9	0
MANUFACTURING			1	1	3	5	20	18	2	3	3	4		60	5
MINERALS	18	17	3	7	19	4	5	14	13	59	5	10	1	175	39
PARKS AND RECREATION		1		1	1	6	2	6		1				18	4
RURAL AND URBAN DEVELOP.							3	4		1	1			9	3
TRANSPORTATION	15	7	1	10	2	7	3	6	1	6	2	1		61	9
WATER DEVELOPMENT	2				2	4	5	7				9	1	30	1
MISCELLANEOUS	2	1	2	3		1	7	4	1	20		1		42	2
TOTAL PROPOSALS RECEIVED	43	31	8	32	52	62	82	79	23	120	53	40	11	636	
TOTAL EIAs REQUIRED	19	9	3	2	4	8	7	11	0	10	3	3	1		80

SOURCE: Saskatchewan Environment and Public Safety

Figure A2
PROPOSALS RECEIVED AND EIAs REQUIRED BY REGION

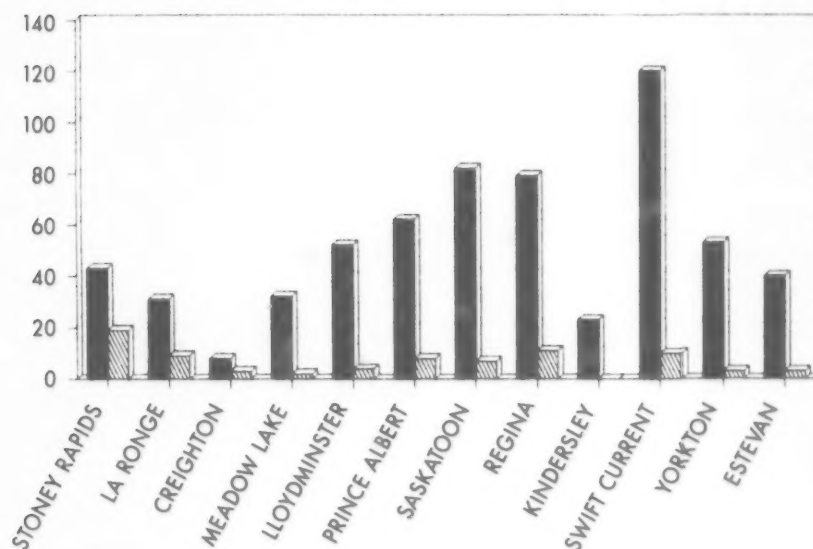
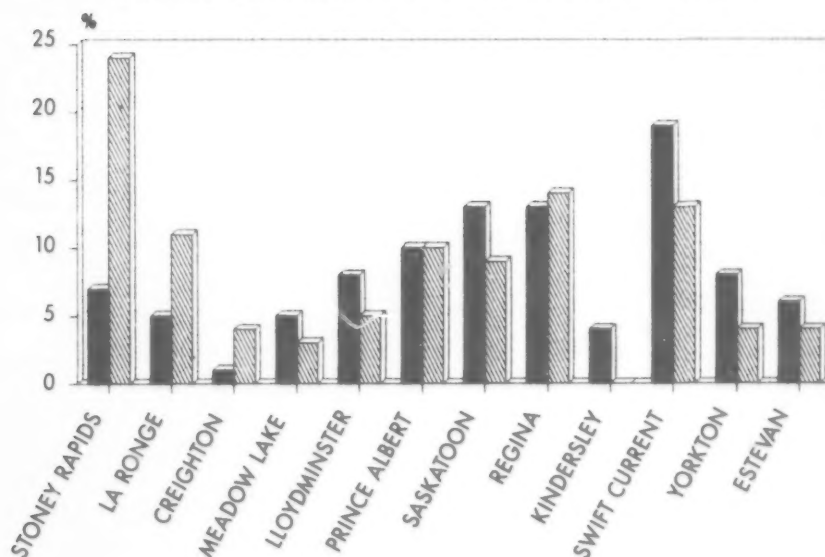
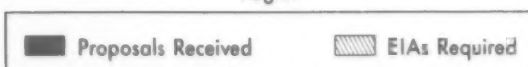


Figure A3
% OF PROPOSALS RECEIVED AND EIAs REQUIRED BY REGION



Region



11 Proposals had no Specific Region

Figure A4
PROPOSALS RECEIVED AND EIAs REQUIRED BY DEVELOPMENT TYPE

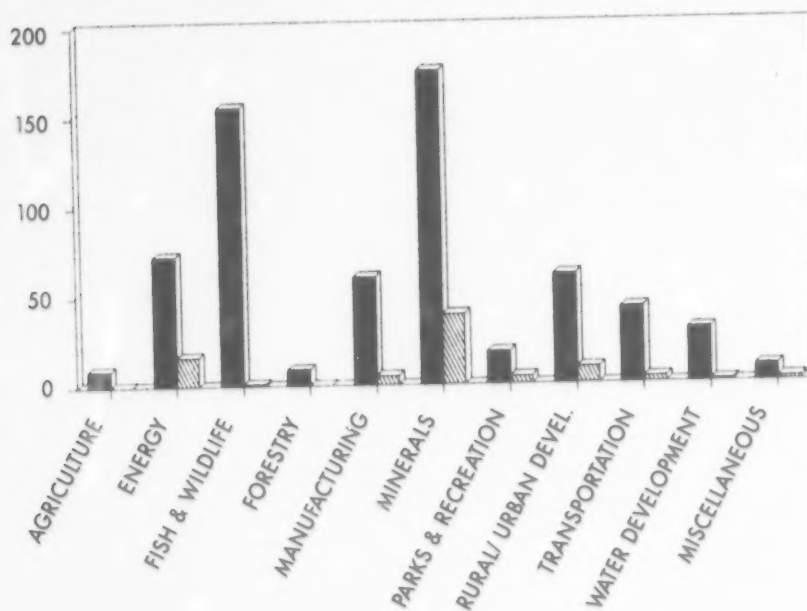


Figure A5
% OF PROPOSALS RECEIVED AND EIAs REQUIRED BY DEVELOPMENT TYPE

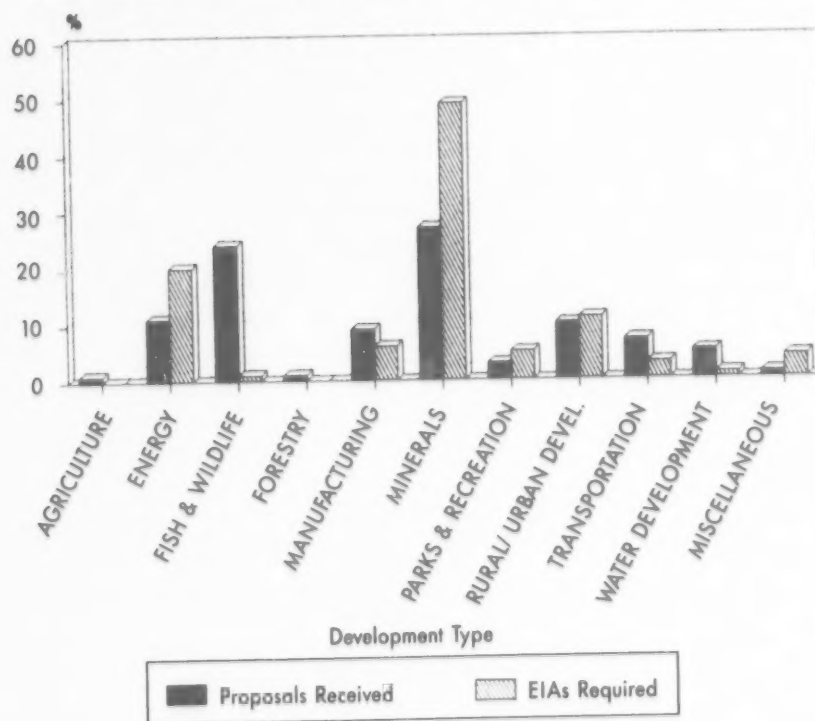
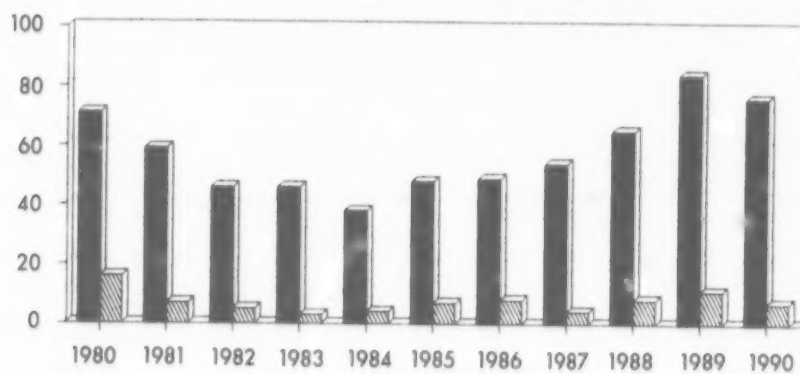
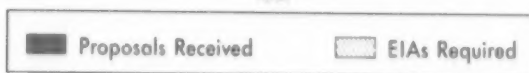


Figure A6
PROPOSALS RECEIVED AND EIAs REQUIRED PER YEAR



Year



1990 includes only Jan. to Oct. data

Appendix III

COMPLEMENTARY LEGISLATIONS AND REGULATIONS

Depending on the type of project, a proponent may be required to adhere to one or all of the following pieces of legislation.

Boiler and Pressure Vessels Amendment Act

- Anhydrous Ammonia Regulations
- Compressed Gas Pressure Vessels Regulations
- Liquified Propane Pressure Vessels and Distribution Plants Regulations
- Welding of Boilers, Pressure Vessels and Pressure Piping Regulations

Building Standards Regulations

Canadian Electrical Code (Adoption) Regulations

Clean Air Act

- Clean Air Regulations
- The Potash Refining Air Emissions Regulations

Critical Wildlife Habitat Protection (CWHP) Act

- CWHP Amendment Act, 1984
- CWH Lands Deposition and Alteration Regulations
- CWHP Amendment Act, 1985

Dangerous Goods Transportation Act

Ecological Reserves Act

Electrical Licensing Act

Emergency Planning Act

Environmental Management and Protection Act

- Hazardous Substances Regulations
- Mineral Industry Pollution Prevention Regulations
- Municipal Refuse Management Regulations
- PCB Storage Regulations
- Water Pollution Control and Waterworks Regulations
- Environmental Spill Control Regulations

Environmental Assessment Act

Fire Prevention Act and Regulations

Fisheries Act

- General Regulations (Fish Habitat Alteration Permit)

Forest Act

- Surface Lease Agreements for each Northern mine
- Forest Regulations
- Wild Rice Regulations

Ground Water Conservation Act

- General Regulations

Heritage Property Act

Highways and Transportation Act

Litter Control Act and Regulations

Mineral Resources Act

- Sedimentary Basin Geophysical Exploration Regulations
- Quarrying Regulations
- Mineral Deposition Regulations

Noxious Weeds Act

Occupational Health and Safety Act and Regulations

Oil and Gas Conservation Act

Parks Act

PCB Transportation Regulations

Pipe Lines Act

Planning and Development Act

- Subdivision Regulations

Pollution (by Live Stock) Control Act

Prairie and Forest Fire Act

Provincial Lands Act

- Provincial Lands Regulations
- Resource Lands Regulations

Provincial Parks, Protected Areas, Recreation Sites and Antiquities Act

Public Health Act

Regional Parks Act

Reservoir Development Area Regulations

Sand and Gravel Act

Surface Rights Acquisition and Compensation Act

Water Corporation Act

Wildlife Act and Regulations

Saskatchewan Environment and Public Safety cannot guarantee that these are all the applicable Acts and Regulations which a proponent may be required to meet, but they probably represent the majority.

Appendix IV

VERBAL PRESENTATIONS MADE TO SEARC, OCT. 11–NOV. 28 BY:

Adam, Eli—Elder, Fond du Lac
Angell, Gerry—Angell's Marina, Denare Beach
Appleby, Alan—Assistant Deputy Minister, Renewable Resources Division, Department
of Parks and Renewable Resources
Arnot, Ms. Randi—Lawyer, Prince Albert City Council
August, Rick—Department of Social Services

Backman, Charles—Sr. Vice-President, IPSCO, Regina
Banga, Alex—Manager of Hydrology Service, Saskatchewan Water Corporation
Barnard, Allan—Doctor, Uranium City
Barsi, Ron—Environmental Protection Division, SEPS
Bear, Louis—Mayor, Sandy Bay
Beatty, Oscar—Fishers and Trappers Association, Deschambeault Lake
Benedict, Glen—Lands, Resources and Administration Branch, Department of Indian
and Native Affairs
Bird, Alphonse—Prince Albert Tribal Council
Birmingham, Brian—Chief Executive Officer, Impact Packaging, Vancouver
Black, Michael—Corporate Counsel, Husky Oil, Calgary
Bobinski, Valerie—Principal, Stony Rapids School, Stony Rapids
Bodnar, Julian—Lawyer, Surface Rights, Lloydminster
Bowman, Pearce—Executive Vice-President and General Manager, Estevan Coal
Corporation, Estevan
Braun, Gordon—Policy Advisor, Metallic Minerals Branch, Department of Energy
and Mines
Brekko, Roger—EMO Co-ordinator, Lloydminster
Brennan, John—1st Vice-President, Saskatchewan Chamber of Commerce, Saskatoon
Bridger, David—Mayor, Meadow Lake
Brown, Bland—Senior Director responsible for infra-structure and land use, City of
Regina, Regina

Cain, Martina—Teacher, Churchill High School teacher, La Ronge
Carle, Gordon—Environmentalist, La Ronge
Carrier, Penny—Town Council representative, La Ronge
Catikkas, Mrs.—Regina Seniors Environmental Group, Regina
Chicken, Louis—Senator, Black Lake
Christensen, Brian—Fish Habitat Protection Co-ordinator, Fisheries Branch,
Department of Parks and Renewable Resources, Prince Albert
Clayton, Ray—Assistant Deputy Minister, Department of Energy and Mines
Clipsham, Fred—Regina
Colton, Arthur—Mayor, Kindersley

Cook, Leon—Councillor, Black Lake
 Cooke, Les—Deputy Minister, Saskatchewan Environment and Public Safety (SEPS),
 Regina
 Cools, Joe—EMO Co-ordinator, La Ronge
 Coxworth, Ann—Saskatchewan Environmental Society, Saskatoon
 Crush, Terry—President, Federation of Surface Rights of Saskatchewan, Lloydminster
 (Lone Rock)
 Currie, Kathy—Regina
 Cushner, George—Swift Current

 Dahl, Leonard—Chair, Saskatchewan Surface Rights Arbitration Board, Kindersley
 Daisin, Alphonse—Black Lake
 Dantouze, John—Prince Albert Tribal Council, Prince Albert
 Devine, Grant—Premier of Saskatchewan, Progressive Conservative Leader, Regina
 Dillen, Rick—Lloydminster
 Dixon, Barry—R.M. of Val Marie administrator, Val Marie
 Dumais, William—Mayor, Southend

 East, Greg—Environmental, Creighton
 Dyck, Marlene—Estevan
 Elder, Ken—Saskatchewan Wheat Pool Director, Regina
 Elliott, Jim—Saskatchewan Natural History Society, Regina
 Envik, Wally—Swift Current
 Epp, Henry—Project Officer, Environmental Assessment Branch, SEPS, Regina

 Falk, Jack—MFT Enterprises, Creighton
 Felix, A.J. (Allen)—Chief, Prince Albert Tribal Council, Prince Albert
 Ferris, D.J.—Vice-President, Husky Oil, Calgary
 Fitzsimmons, Michael—Prince Albert
 Fraser, Kelly—Fraser Oil, Kindersley
 Fraser, Wayne—Hudson Bay Mining & Smelting, Flin Flon, MB
 Friedrich, Gordon—RM of Wilton EMO Co-ordinator, Lloydminster

 Galimberti, Tom—Executive Director, Planning and Assessment Division, SEPS, Regina
 Garner, Al—Southeast Regina
 Gautier, Lydia—Town Council representative, La Ronge
 Germann, Carlos—Department of Heritage Resources and Archaeology, Regina
 Gibson, Bill—President, Crown Management Board, Regina
 Guerette, Deb—Creighton

 Haggart, Terry—Mayor, Eastend
 Hamoline, Daniel—Fifth Avenue Family Mediation Clinic, Saskatoon
 Hansen, Allan—Deputy Minister, Department of Social Services, Regina
 Hanson, Paul—Prince Albert
 Harmon, Dave—Mistik Management / NorSask Forest Products, Meadow Lake
 Hauck, Bob—Saskatchewan Wheat Pool, Estevan
 Haverstock, Lynda—Leader, Saskatchewan Liberal Party, Saskatoon
 Heise, Charles—Councillor, R.M. of Kindersley
 Henderson, Bob—Prince Albert

Hjertaas, Warren—President, Yorkton Natural History Society, Yorkton
Hodges, John—Estevan
Hovdebo, Don—CBT Labs, Saskatoon
Hughes, David—Project Director, Crown Management Board, Regina
Hughes, Philip—Vice-President of Finance, SaskEnergy, Regina
Hume, Bill—1st Vice-President, Chamber of Commerce, Estevan
Hunwicks, Joe—EMO Co-ordinator and fire chief, Swift Current

Ignatiuk, Metro—Lawyer, Southeast Saskatchewan Surface Rights Association, Estevan
Innes, David—Deputy Minister, Department of Urban Affairs, Regina

Jakeman, Al—Regina
Jeancart, Vern—Prince Albert
Joa, Bruce—Councillor, Creighton

Kasper, Doreen—Churchill High School teacher, La Ronge
Keen, John—Regina
Ketilson, Neil—Co-ordinator of Responsible Sewage Programme, Saskatchewan Wheat
Pool, Regina

Klein, John—EMO Co-ordinator, Kindersley
Klippenstein, David—Association of Professional Community Planners of Saskatchewan,
Saskatoon

Kneen, Jamie—Environmental Advisor, Hatchet Lake Band, Wollaston Post
K norr, Peter—Millar Western Pulp Company, Edmonton
Kolosky, Wes—La Ronge
Kramer, Stuart—Assistant Deputy Minister, Department of Agriculture and Food, Regina
Kratt, Larry—Manager of Environmental Affairs, TransGas, Regina

Laing, Richard—Senior Planner, Strategic Planning Branch, SEPS, Regina
Laird, Elmer—Director of Canadian Organic Producers Marketing Co-operative Ltd., Girvin
Lamont, Tom—Lloydminster
Lawrence, Steve—Prince Albert
Lax, Jack—General Manager, Industrial Relations, SaskTel, Regina
Lechner, Larry—Director, Air and Land Protection Branch, Regina Environmental Protection
Division, SEPS

Lees, Charlie—Boundary Dam, SaskPower, Estevan
Little, Murray—Director of Forestry Branch, Department of Parks and Renewable Resources,
Prince Albert

Livingston, Diane—Project Officer, Environmental Assessment Branch, SEPS, Regina
Lopez, Gil—Department of Energy and Mines, Regina
Lyle, Bruce—Environmentalist, Meadow Lake
Lyle, Nancy—Environmentalist, Meadow Lake
Lyons, Jay—Project Manager, Lone Pine Resources Ltd., Calgary

MacDonald, Bill—Deputy Minister, Department of Health, Regina
MacDonald, Rod—Saskatchewan Action Foundation for the Environment (SAFE), Radville
Machin, Brenda—Research Economist, Economic Research Section, Department of
Agriculture and Food, Regina
Mackay, Cecil—Councillor, Lloydminster
MacPherson, Jim—President, MacPherson Consultants Ltd., Saskatoon

Magis, Ed—Mayor, Yorkton
Mamchur, Boris—Prince Albert
Marvy, Alain—Vice-President of Operations, Amok Ltd., Saskatoon
Maurer, Don—Lloydminster
Mayor, John—Environmental Engineer, International Minerals & Chemical Corp.
(Canada) Ltd., Esterhazy
Mazur, Doug—Director of Resource Lands Branch, Department of Parks & Renewable
Resources, Regina
McConnell, John—Professor, Geography Department, University of Saskatchewan,
Saskatoon
McCutcheon, Henry—Executive Director, Community Planning Services Branch,
Department of Urban Affairs, Regina
McDonald, John—Tribal Vice-Chief, Prince Albert Tribal Council, Prince Albert
McDonald, Mary-Anne—Meadow Lake
McGunigal, Irene—La Ronge
McIntosh, Ian—Deputy Director, Corporate Finance, Saskatchewan Securities
Commission, Regina
McIver, Don—Hnatyshyn & Co. Law Office, Saskatoon
McKay, Ernest—Mayor, Pelican Narrows
McKay, Mary—CUPE Environment Committee, Prince Albert
McLeod, Dennis—Mayor, Stanley Mission
McLeod, Sheldon—Executive Secretary, Saskatchewan Round Table on Environment
and Economy, SEPS, Regina
Meadly, Tim—Manager, Safety and Environment, Amok Ltd., Saskatoon
Meagher, Paul—Prince Albert
Meier, Gerry—Deputy Minister, Department of Human Resources, Labour and
Employment, Regina
Mellanger, Michel—Director of Environment, Saskatchewan Research Council,
Saskatoon
Meraste, Tom—Councillor, Sandy Bay
Mercredi, August—Chief, Fond du Lac Band, Fond du Lac
Mercredi, Billy Joe—Stony Rapids
Merkowsky, Alan—Saskatoon
Michel, Bernard—President, Cameco Corporation, Saskatoon
Mitterhuber, Ernest—Reeve, R.M. of Langenburg
Michel, Ron—Chief, Peter Ballantyne Band, Pelican Narrows
Montieth, Ian—Regina Environmental Group, Regina
Moore, Gordon—Mayor, Creighton
Morgan, J.R.—Vice-President and General Manager, Prairie Coal Ltd., Estevan
Morin, Henry—Pelican Narrows
Morin, Lennard—Mayor, Cumberland House
Morrell, Rick—Regina Environmental Group, Regina
Moskowec, Ray—EMO Co-ordinator, Green Lake (Meadow Lake Mutual Aid District)
Murray, Al—Manager of Inventory and Data Services, Fisheries Branch, Department
of Parks and Renewable Resources, Regina
Mutch, Graham—Project Officer, Environmental Assessment Branch, SEPS, Regina
Nargang, Darryl—Assistant Director, Water Quality Branch, Environmental Protection
Division, SEPS, Regina

Newman, Michael—Vice-President, Saskatchewan Forestry Association, Prince Albert
Newton, Robbie—Lawyer, Meadow Lake
Nidesh, Merv—Director, Intergovernmental and Legislative Affairs, Planning and
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Appendix V

SEARC PUBLIC MEETING (AND PRIVATE INTERVIEW) TIMETABLE

STONE RAPIDS Thursday, Oct. 11 / Friday, Oct. 12, 1990
LA RONGE Friday, Oct. 12 / Saturday, Oct. 13
YORKTON Tuesday, Oct. 16
CREIGHTON Thursday, Oct. 18 / Friday, Oct. 19
KINDERSLEY Tuesday, Oct. 23
LLOYDMINSTER Thursday, Oct. 25
SWIFT CURRENT Tuesday, Oct. 30
PRINCE ALBERT Thursday, Nov. 1
ESTEVAN Tuesday, Nov. 6
MEADOW LAKE Thursday, Nov. 8 / Friday, Nov. 9
PELICAN NARROWS Tuesday, Nov. 13
REGINA Thursday, Nov. 15 / Friday, Nov. 16
SASKATOON Monday, Nov. 19 / Wednesday, Nov. 21
REGINA "GOVERNMENT DAYS" Thursday, Nov. 22 / Friday, Nov. 23
Wednesday, Nov. 28, 1990

Glossary

ACTIVITY—shall mean any industry, activity, undertaking, project, structure, work, exploratory venture, test well or feasibility study, and includes a modification, extension, abandonment, demolition and/or rehabilitation thereof. All activities are considered to be within the environmental assessment process until screened out.

ARC (Activity Review Committee)—established by the Environmental Assessment Commission when a full environmental impact assessment is necessary. The ARC finalizes environmental impact assessment guidelines and supervises the proposal's progress through several stages of the environmental assessment process.

CLASS ASSESSMENT—a form of an environmental impact assessment employed by proponents, as directed by the Environmental Assessment Commission, to consider a proposed activity's cumulative effects. A class assessment is applied to a proposed activity in which individual operations and associated impacts are relatively minor and localized but repeat frequently.

COMPENSATION—is a last resort option when proponents cannot mitigate the negative impacts of their proposed activity. Compensation may include monetary payments to directly affected individuals for socio-economic impacts; however, compensation is not an acceptable form of mitigation for bio-physical impacts.

CONFIDENTIALITY—there is little that should be kept secret from the public. All information shall be accessible unless there is good reason to the contrary, which shall be decided by the EAC.

DECOMMISSIONING—the process of restoring the environment, which has been affected by an activity, to its original state when the activity is terminated.

EA ACT (Environmental Assessment Act; the Act; 1980)—The provincial government legislation under which Saskatchewan Environment and Public Safety currently reviews the potential environmental effects of a proposed development.

ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS—a process by which the Environmental Assessment Commission: reviews and screens activity proposals; assesses the need for an environmental impact assessment to be done by a proponent, and for an environmental impact statement to be written; prepares guidelines for an EIA and EIS; reviews and comments on an EIA and EIS; informs the public of activities and potential environmental effects; and approves activities when they are environmentally acceptable.

EAC (Environmental Assessment Commission)—an independent agency which will administer an environmental assessment process. The EAC shall work toward the goal of sustainability and ensure environmentally sound integrated decision-making. It will replace the present Environmental Assessment Branch of Saskatchewan Environment and Public Safety.

EA PROCESS (Environmental assessment process)—the decision-making tool which will be used to identify the options, evaluate the implications and make the environmental choices most in accord with the principles of sustainability. Environmental assessment is just one aspect of a comprehensive environmental protection plan. Environmental assessment begins at the time when ideas for activities are first created and extends beyond the time when approvals are given and those activities begin.

ENVIRONMENTAL AUDITOR—appointed within the Environmental Protection Division of Saskatchewan Environment and Public Safety to co-ordinate and oversee the monitoring process.

EIA (Environmental Impact Assessment)—a formal study which predicts the biological, physical and socio-economic effects of proposed activities.

EIA GUIDELINES (Environmental Impact Assessment guidelines)—specify the scope and method of research, as well as identify the relevant bio-physical and socio-economic issues to be addressed by the proponent in the site-specific environmental impact assessment.

EIS (Environmental Impact Statement)—a document prepared by proponents which predict and evaluate the positive and negative impacts immediately surrounding their activity and alternative means of carrying out the activity—from the concept of the activity through construction, operation and abandonment.

EPP (Environmental Protection Plan)—a less formal vehicle for environmental protection used when a proponent's proposed activity is not expected to cause major or unknown significant environmental impacts. EPPs detail how proponents will eliminate the negative environmental impacts of their activity.

FORMAL PROPOSAL—the second stage of the environmental assessment process. After a proposed activity has been screened by the Environmental Assessment Commission, a proponent may be required to submit a mandatory formal proposal document detailing the proposed activity, in order to allow the EAC to determine if a proponent must carry out a full environmental impact assessment.

INITIAL SCREENING—the first stage of environmental assessment. All activities shall be initially screened and subject to the environmental assessment process unless exempted, at this stage, by the Environmental Assessment Commission.

INITIAL SCREENING QUESTIONNAIRE—submitted by all proponents at the "idea" stage of a proposal to flag every activity that may affect the environment in any significant way. Through the screening questionnaire, the Environmental Assessment Commission can determine if proposed activities need further examination.

IPS (Integrated Policy Statement)—a document prepared by each department in Government, as well as all Crown Corporations, articulating the environmental implications of all policies, programmes, plans and initiatives currently within their mandate. Government departments will continue to provide IPSs for new policy initiatives.

INTERJURISDICTIONAL ISSUES—the present situation of discord and duplication between the federal Environmental Assessment Review Policy and the provincial EIA process.

MANDATORY LISTS—a list of activities which, due to their significant impacts regardless of location, will automatically require an environmental impact statement to be completed before the proposed activity can go forward.

MITIGATION—efforts made by proponents to eliminate or reduce negative environmental impacts of their activity. The first priority of proponents shall always be to eliminate negative impacts by choosing alternatives which prevent such impacts. Where negative impacts are still expected, the second priority shall be for proponents to restore damaged features and resources. Compensating individuals with monetary payments for socio-economic impacts is a last resort when proponents cannot prevent or adequately deal with the negative impacts of their activity.

MONITORING—the process of proponents submitting information to regulatory agencies, and supplemented by periodic inspections by those agencies, to ensure conditions attached to an activity's EA licence or EPP permit are followed and enforced.

PERFORMANCE BONDS—an assurance of funding made by the proponent at the beginning of activity construction, which is held by the Government, and released only when the Environmental Auditor is satisfied that decommissioning is completed.

POLICY—includes policies, proposals, plans and programmes.

POLICY ASSESSMENT—The process in which all Government departments and Crown Corporations examine whether the integration of bio-physical and socio-economic considerations have produced general policies that are in keeping with the goal of developing a sustainable future. Ultimately, policy assessment shall occur before site-specific proposals are examined.

POLICY ASSESSMENT PROCESS—designed to enable elected decision-makers to assess the environmental implications of their policies and, if necessary, to revise them in order to reflect sound, environmental principles.

PRC (Policy Review Committee)—established by the Environmental Assessment Commission if formalized, public consultation is deemed necessary before the EAC makes its recommendation concerning a specific policy brought forth by Government or a Crown Corporation.

PROPONENT—a person, corporation or Government agency proposing an activity which may have environmental consequences.

PROPOSAL—a description of the proposed activity, providing a basis for identifying the likely environmental effects and concerns.

PROVINCIAL ENVIRONMENTAL DATA SYSTEM—an ongoing, comprehensive data base of the bio-physical environment throughout Saskatchewan, and the impacts it is already expected to withstand. Data for EIA studies should be collected using a standardized methodology and integrated into this data base.

PUBLIC CONSULTATION—the means by which the public is actively involved in the environmental assessment process throughout its duration.

PUBLIC CONSULTATION PLAN—a written statement detailing how proponents shall seek public opinion from the immediate local stakeholders affected by their proposed activity. This strategy continues from the proposal stage through until the environmental impact statement is completed.

REGIONAL PLANNING—a process of determining the types of development which are appropriate and desirable for a given region.

RETROACTIVITY—concerns the issue of applying the new EA process to existing activities. The new environmental assessment legislation will not apply to existing activities, but shall apply to all expansions, alterations, decommissionings and abandonments of existing activities.

SEARC (the Saskatchewan Environmental Assessment Review Commission)—appointed by Ministerial Order in August, 1990 by the Minister of Environment and Public Safety to review and make recommendations for changes to the current Saskatchewan environmental assessment and review process and The Environmental Assessment Act.

SEPS (Saskatchewan Environment and Public Safety)—the provincial government department currently responsible for administering the environmental assessment and review process, The Environmental Assessment Act, and other environmental statutes.

SIGNIFICANT IMPACT—shall be considered likely to occur when an activity may, in the opinion of the EAC:

1. have an effect on any unique, rare, threatened or endangered species, habitat or physical feature of the environment;
2. have a detrimental effect on critical habitats or migration routes, candidate or established ecological reserves, parks or parkland reserves, protected wilderness, natural areas, conservation projects or historic sites;
3. cause a detrimental effect on air, water or soil quality, involve the discharge of any pollutants, or result in the creation of hazardous wastes, residues or by-products;
4. involve a substantial use, alteration or irreversible commitment of any provincial resource;
5. pre-empt the use of potential use of any provincial resource, or have an adverse impact on another resource;
6. cause substantial changes in noise, odours or visual conditions that adversely affect adjoining areas;
7. adversely affect human health and safety, including that of persons not associated with the activity;
8. cause a substantial change in the social, cultural or economic conditions, or overtax existing services or facilities, within affected neighbourhoods, communities or regions;
9. be a pre-condition to, or necessary part of, implementing another activity which may have a significant impact;
10. cause secondary or indirect effects, or substantially increase or expand the scale, extent or rate of an existing activity—any of which is likely to significantly affect the environment;
11. generate substantial environmental concern on the part of, or controversy among, recognized stakeholders;
12. establish a precedent or involve a new technology likely to have a significant present or future environmental effect.

STAKEHOLDER—members of the public who are most directly affected by a proposed activity, and may include members of the public, at large, who are interested in the proposed activity. In the past, stakeholders were called intervenors.

STAKEHOLDER FUNDING—limited and controlled funding, administered by the Environmental Assessment Commission, available to individuals or groups to address legitimate public concerns. Stakeholder funding should be available at any point in the EA process where public input is contemplated after the proposal stage. In the past, known as intervenor funding.

STANDING—legislated within the EA Act to ensure the public has mechanisms available for appeals on questions of law throughout the environmental assessment process.

STATE-OF-THE-ENVIRONMENT REPORT—an annual report prepared by the Strategic Planning Branch of Saskatchewan Environment and Public Safety detailing the overall status of environmental protection, monitoring, enforcement and mitigation effectiveness. The report shall be public and presented to the Legislature.

SUSTAINABLE FUTURE—creating a society that can maintain a functional economy while preserving the ecosystems, with all their ecological diversity, upon which we depend.

TRC (Technical Review Committee)—a committee of experts, from government departments, which provides the Environmental Assessment Commission with technical input in the environmental assessment process. An individual from each relevant government department shall sit on the TRC and be charged, exclusively, with the responsibility of environmental assessment.

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LEGISLATION, REGULATIONS AND GUIDELINES

BRITISH COLUMBIA

Environment Management Act
Environment and Land Use Act
Environmental Impact Assessment Regulations
Environmental Appeal Board Procedure Regulation
Fraser River Estuary Environmental Assessment Procedures
Cowichan River Estuary Environmental Assessment Procedures
Fraser River Estuary Environmental Assessment Guidelines
Environmental Assessment Guidelines: Linear Development
Environmental Assessment Guidelines: Coal Development

ALBERTA

Proposed Legislation: Alberta Environmental Protection and Enhancement Act
Land Surface Conservation and Reclamation Act
Energy Resources Conservation Act
Bill 52: *Natural Resources Conservation Board Act*
Oil and Gas Conservation Act (Partial)
Local Intervenors Costs Regulation
Rules of Practice of the Energy Resources Conservation Board
Alberta Environmental Impact Assessment Guidelines

SASKATCHEWAN

The Environmental Assessment Act
The Public Utilities Review Commission Act (repealed)

MANITOBA

The Environment Act
The Manitoba Evidence Act
Classes of Development Regulation
Licensing Procedures Regulation

ONTARIO

Environmental Assessment Act
Consolidated Hearings Act, 1981
Environmental Protection Act
Intervenor Funding Project Act, 1988
General Regulation
Rules of Practice—Environmental Assessment Board
A Citizen's Guide to Environmental Assessment
A Proponent's Guide to Environmental Assessment

QUEBEC

Environment Quality Act
Regulation respecting environmental impact assessment and review
Regulation respecting the environmental impact assessment and review
applicable to part of the Northeastern Quebec region
Regulation respecting certain boundaries for the protection of the environment
and social milieu of the territory of James Bay and Northern Quebec
Regulation respecting the environment and social impact assessment and review
procedure applicable to the territory of James Bay and Northern Quebec

NEW BRUNSWICK

Clean Environment Act
Environmental Impact Assessment Regulation
Environmental Impact Assessment Guidelines

NOVA SCOTIA

Environmental Assessment Act
Environmental Protection Act
Environmental Assessment Regulations

PRINCE EDWARD ISLAND

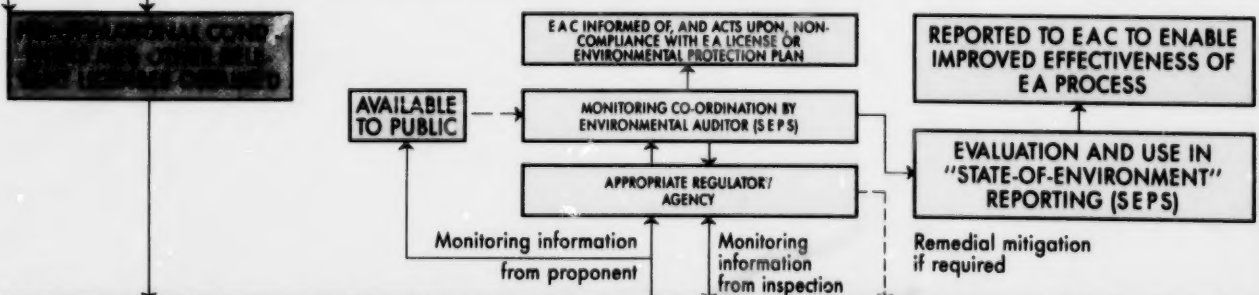
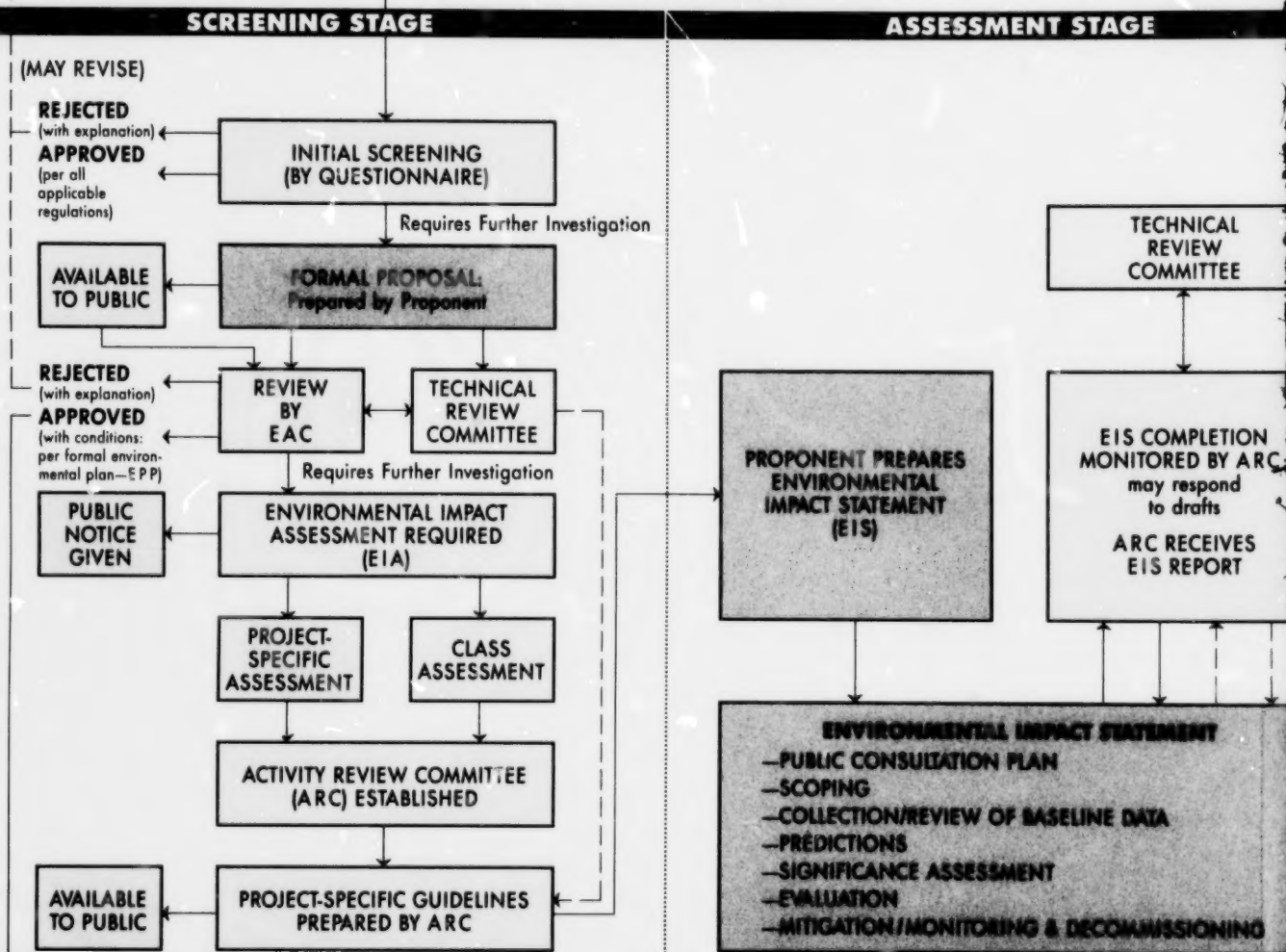
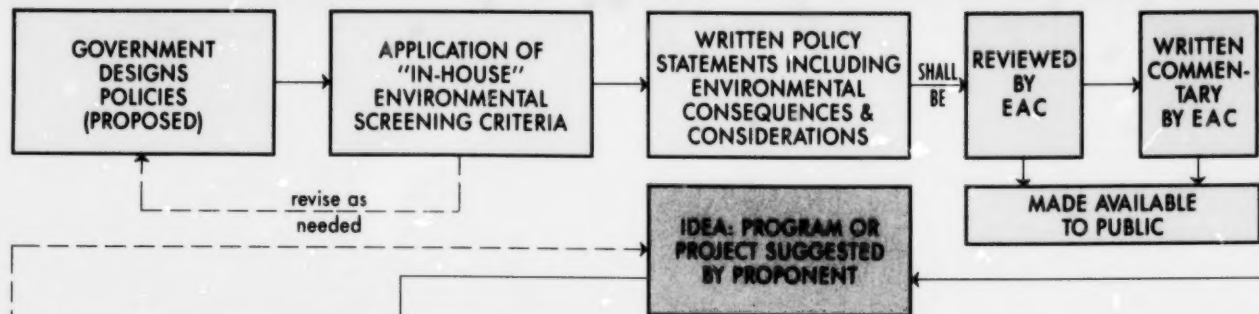
Environmental Protection Act

NEWFOUNDLAND

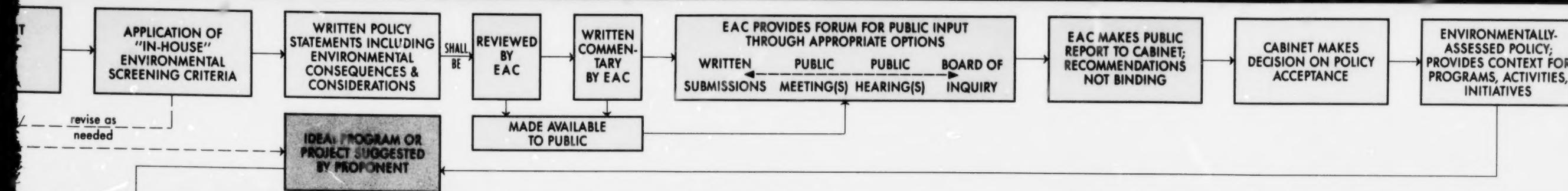
The Environmental Assessment Act
Environmental Assessment Regulations 1984

CANADA

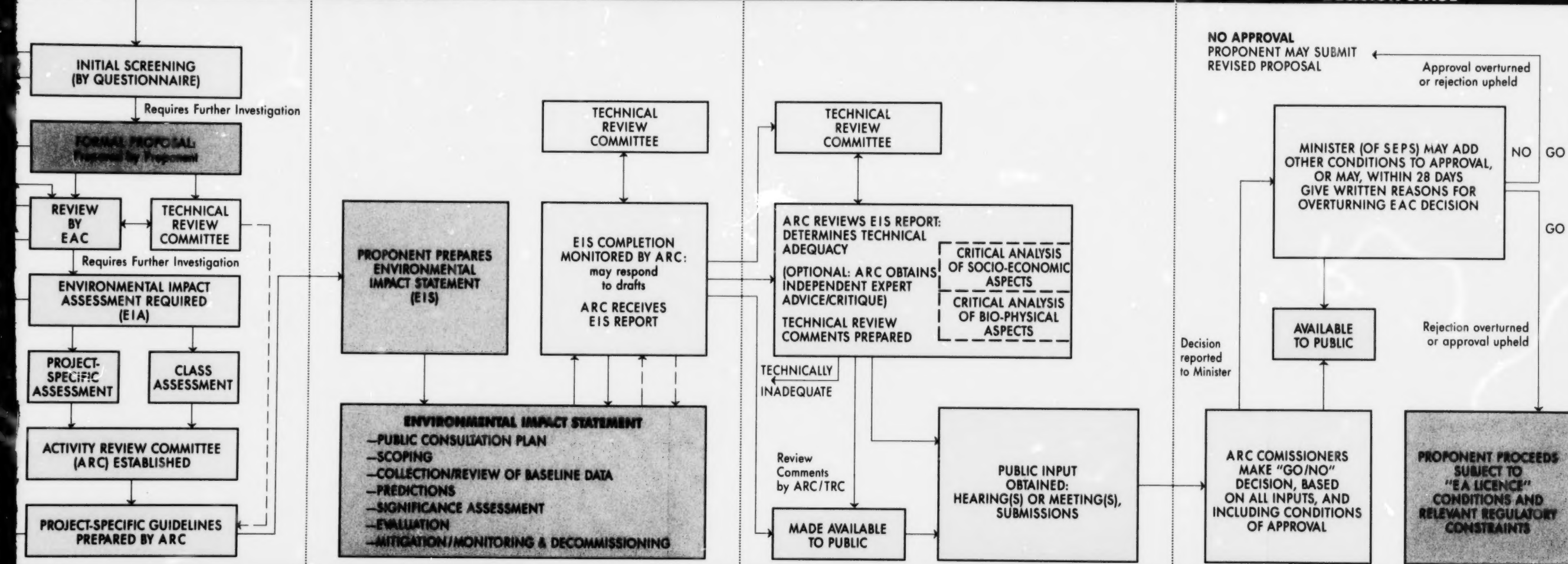
Order in Council 84-467: *Environmental Assessment and Review Process
Guidelines Order*
Bill C-78: Canadian Environmental Assessment Act



CONCEPTUAL STAGE



SCREENING STAGE ASSESSMENT STAGE REVIEW STAGE DECISION STAGE



OPERATIONAL STAGE

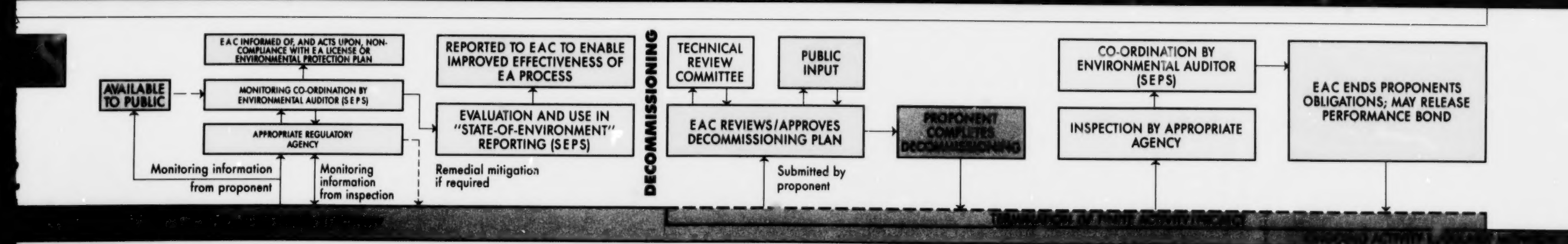


Figure 2
PROCEDURES AND ROLES IN PROPOSED ENVIRONMENTAL ASSESSMENT PROCESS

- ENVIRONMENTAL ASSESSMENT COMMISSION
- PUBLIC
- PROPONENT
- GOVERNMENT